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CHAPTER 381

An act to amend Sections 52453 and 52481 of, to add Sections 52261, 52262, and 52455 to, and to add and repeal Sections 52323, 52324, and 52325 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 52261 is added to the Food and Agricultural Code, to read:

52261. "Viability" means a description of living seeds which are capable of germinating.

SEC. 2. Section 52262 is added to the Food and Agricultural Code, to read:

52262. "Farm" means a place of agricultural production of food or fiber which has annual sales of agricultural products of one thousand dollars ($1,000) or more.

SEC. 3. Section 52323 is added to the Food and Agricultural Code, to read:

52323. The department's cost of carrying out this chapter shall be funded from money which is received by the director pursuant to this chapter. The director shall also pay annually, in arrears, 30 percent of the total assessment fees received pursuant to Section 52354 or sixty-five thousand dollars ($65,000), whichever sum is greater, to counties as a subvention for costs incurred in the enforcement of this chapter. The department's costs of administering this chapter shall be paid before allocating funds to the counties under this section.

This section shall become operative on July 1, 1984, and shall remain in effect only until July 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1989, deletes or extends that date.

SEC. 4. Section 52324 is added to the Food and Agricultural Code, to read:

52324. The subvention program under Section 52323 is an optional program that the counties may choose to participate in. The subvention to counties under Section 52323 shall be apportioned as follows:

(a) Counties with no registered seed labelers shall annually receive one hundred dollars ($100).

(b) Counties with registered seed labeler operations shall receive subventions based upon units of enforcement activity generated by the registered seed labeler operations within the county. The units of activity shall be determined by the director, taking into consideration the number of lots and kinds of seed labeled by each registered seed labeler operation within the county. The rate per

unit of activity shall be established by dividing the total statewide units of activity into the annual funds available to the counties under Section 52323 after deducting the amount required for subventions in subdivision (a). Apportionment to individual counties shall be based upon the county's total units of activity times the established rate.

This section shall become operative on July 1, 1984, and shall remain in effect until July 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1989, deletes or extends that date.

SEC. 5. Section 52325 is added to the Food and Agricultural Code, to read:

52325. Commissioners of counties that choose to participate in the subvention program shall enter into a cooperative agreement with the director, whereby the commissioner agrees to maintain a statewide compliance level, determined by the director, on all seed within the county. The cooperative agreement shall be in effect for a five-year period. The annual apportionment calculated under subdivision (b) of Section 52324 to each individual participating county shall be established in a memorandum of understanding between the commissioner and the director.

This section shall become operative on July 1, 1984, and shall remain in effect until July 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1989, deletes or extends that date.

SEC. 6. Section 52453 of the Food and Agricultural Code is amended to read:

52453. Except as otherwise provided in Section 52454, each container of vegetable seed which is for sale or sold within this state for sowing purposes shall bear upon it, or have attached to it, in a conspicuous place a plainly written or printed label or tag in the English language, which gives all of the following information:

(a) Name of kind and variety of seed.

(b) For any seed which germinates less than the standard last established by the director under this chapter, the percentage of germination, exclusive of hard seed; the percentage of hard seed, if present; the calendar month and year the test was completed to determine those percentages; and the words "Below Standard" in not less than eight-point type.

(c) Name and address of the person that labeled the seed, or of the person that sells the seed within this state.

(d) In addition to the information required in subdivisions (a), (b), and (c), on each container of more than one-half pound (227 grams), the label shall include both the lot number or other lot identification and the calendar month and year the germination test was completed.

(e) In addition to the information required in subdivisions (a), (b), and (c), on each container of one-half pound (227 grams) or less, which was packed on or after July 1, 1984, the labeling shall include

the statement "Packed for the (number of the year) season." The year shall be the year intended for planting.

SEC. 7. Section 52455 is added to the Food and Agricultural Code, to read:

52455. In addition to the labeling requirements of this article, all seed, except vegetable seed in containers of one-half pound (227 grams) or less, at the time of sale by a retail merchant for nonfarm usage, shall conspicuously bear upon the labeling of the seed a viability assurance statement.

(a) The statement shall be "Sell by (month) (year)," or " Use before (month) (year)." The month and year in the statement shall not exceed the 15 month retail time period allowed by subdivision (b) of Section 52481.

(b) The statement shall be conspicuous and in capital letters of the same size of type as other printed material on the labeling and contiguous to the germination date.

(c) The statement shall be affixed at the time of labeling for those containers destined for retail sales.

(d) This section does not apply to seed bearing a date of test which is prior to July 1, 1984.

SEC. 8. Section 52481 of the Food and Agricultural Code is amended to read:

52481. Except as otherwise provided in this section or in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell any agricultural or vegetable seed within this state, other than the seed which is described in Section 52451, unless the test to determine the percentage of germination which is required by Article 8 (commencing with Section 52451) has been completed within the following period, exclusive of the calendar month in which the test is completed, immediately prior to shipment, delivery, transporation, or sale:

(a) In the case of any agricultural or vegetable seed which is shipped, delivered, transported, or sold to a dealer for resale, eight months.

(b) In the case of any agricultural or vegetable seed which is sold at retail, 15 months.

(c) In the case of any agricultural or vegetable seed which is packaged under conditions which the director finds and determines will prolong the viability of the seed, the director may designate, in regulations which are adopted pursuant to this chapter, a longer period than otherwise specified in this section, and may require any additional labeling that may be necessary to maintain identification of seed which is packaged under these conditions.

(d) Seed labeled under Section 52455 is not subject to subdivision (b) upon expiration of the viability assurance statement. This exemption does not limit the right of the enforcing officer to enforce other applicable sections of this chapter.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the

California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 382

An act to amend Sections 35150.5 and 56250.5 of the Government Code, relating to municipal annexation.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 35150.5 of the Government Code is amended to read:

35150.5. (a) Notwithstanding any other provision of this part, the commission shall not have any authority to review an annexation to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if the annexation is initiated by resolution of the legislative body of the city.

(b) The legislative body of the city shall be the conducting authority for the annexation and the proceedings for the annexation shall be initiated and conducted as nearly as may be practicable in accordance with Article 2 (commencing with Section 35220) of Chapter 3.

The legislative body of the city, in adopting the resolution approving the annexation, shall make the following findings:

(1) That the unincorporated territory is within the city's urban service area as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the commission's road annexation policies. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the city's adopted general plan.

(6) That the territory is contiguous to existing city limits.

(7) That the city has complied with all conditions imposed by the commission for inclusion of the territory in the city's urban service area.

(c) All annexations which involve territory for which the land use designation in the city's general plan has changed from the time that the city's urban service area was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.

(d) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the annexation proposal should also be annexed or detached from that special district.

(e) Any petition under subdivision (c) or resolution under subdivision (d) shall be submitted to the executive officer of the commission within 15 days of the adoption by the legislative body of the city of the resolution approving the annexation. The executive officer of the commission shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

At the appeal hearing the commission may reject the resolution approving the annexation and disapprove the annexation, or it may affirm the resolution and approve the annexation wholly, partially, or conditionally.

This section 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. 2. Section 56250.5 of the Government Code is amended to read:

56250.5. (a) Notwithstanding any other provision of this part, the commission shall not have any authority to review a reorganization which includes an annexation to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city.

(b) The legislative body of the city shall be the conducting authority for the reorganization and the proceedings for the reorganization shall be initiated and conducted as nearly as may be practicable in accordance with Article 2 (commencing with Section 35220) of Chapter 3 of Part 2.

The legislative body of the city, in adopting the resolution approving the reorganization, shall make the following findings:

(1) That the unincorporated territory is within the city's urban service area as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the commission's road annexation policies. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the city's adopted general plan.

(6) That the territory is contiguous to existing city limits.

(7) That the city has complied with all conditions imposed by the commission for inclusion of the territory in the city's urban service area.

(c) All reorganizations which involve territory for which the land use designation in the city's general plan has changed from the time that the city's urban service area was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.

(d) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the reorganization proposal should also be annexed or detached from that special district.

(e) Any such petition under subdivision (c) or resolution under subdivision (d) shall be submitted to the executive officer of the commission within 15 days of the adoption by the legislative body of the city of the resolution approving the annexation. The executive officer of the commission shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

This section 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.

CHAPTER 383

An act to amend Sections 61812, 61932, 62062, and 62063 of the Food and Agricultural Code, relating to milk, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 61812 of the Food and Agricultural Code is amended to read:

61812. Neither the repeal of former Chapter 2 of this part, the reenactment of this chapter nor the amendment of any provision of this chapter shall have the effect of terminating or invalidating any stabilization and marketing plan, including provisions thereunder regarding minimum prices to be paid producers for market milk,

established by the director pursuant to this chapter or former Chapter 2 prior to the effective date of the repeal, enactment, or amendment. The director shall, however, establish minimum prices pursuant to the provisions of the enactment, or amendment at the earliest practicable date after the effective date of the amendment.

SEC. 2. Section 61932 of the Food and Agricultural Code is amended to read:

61932. Class 1 comprises:

(a) Any market milk, market skim milk, half-and-half, or concentrated milk that is supplied to consumers in the fluid state, with the exception of the following:

(1) (A) Any market milk products which are sterilized, as defined in Section 32517 and sold for use outside the state.

(B) Any market milk products which are ultrapasteurized and sold for use outside the 48 contiguous states in the United States.

This paragraph (paragraph (1) of subdivision (a) of Section 61932) shall be operative until January 1, 1986.

(1) Any market milk products which are sterilized, as defined in Section 32517, or ultrapasteurized, and sold for use outside the 48 contiguous states in the United States.

This paragraph (paragraph (1) of subdivision (a) of Section 61932) shall become operative on January 1, 1986.

(2) Any market half-and-half which is ultrapasteurized and packaged in hermetically sealed containers.

(3) Any market half-and-half which is packaged in presterilized containers under aseptic conditions to meet the marketing requirements for such products in states other than this state; provided, however, that nothing in this paragraph shall authorize the sale within this state of any milk product as a sterilized product unless such product meets the standards and requirements for sterilized products contained in Division 15 (commencing with Section 32501).

(4) Any market milk, market skim milk, or market cream which is used in the manufacture of yogurts which are directly sold for use in states other than this state.

(b) Any market milk, market skim milk, or market cream which is used in any other milk product, or products resembling milk products, in which the use of market milk or any components or derivatives of market milk is required by, or pursuant to, the provisions of this code, except any such product defined in Section 61933 as class 2.

(c) Any market milk, market skim milk, market cream, market milk fat, or market milk solids not fat which is used in the standardizing or fortifying of any milk product which is defined in this section as class 1.

(d) Any market milk, market skim milk, or market cream which is used in any product not otherwise classified, which is required by any regulations adopted by the director pursuant to Article 2 (commencing with Section 36631), Chapter 1, Part 3 of Division 15 to be made from market milk or any components or derivatives of

market milk.

(e) Any market milk, market skim milk, market cream, market milk fat, or market milk solids not fat used in any filled product or imitation milk product, when the product imitated or resembled, is defined in this section as class 1.

SEC. 3. Section 62062 of the Food and Agricultural Code is amended to read:

62062. Each stabilization and marketing plan shall contain provisions whereby the director establishes minimum prices to be paid by handlers to producers for market milk in the various classes. The director shall establish the prices by designating them in the plan, or by adopting methods or formulas in the plan whereby the prices can be determined, or any combination of the foregoing. If the director directly designates prices in the plan, the prices shall be in reasonable and sound economic relationship with the value of milk used for manufacturing purposes. If the director adopts methods or formulas in the plan for designation of prices, the methods or formulas shall be reasonably calculated to result in prices which are in a reasonable and sound economic relationship with the value of milk used for manufacturing purposes.

In establishing the prices, the director shall take into consideration any relevant economic factors, including, but not limited to, the following:

(a) The reasonableness and economic soundness of market milk prices in relation to the cost of producing and marketing market milk for all purposes, including manufacturing purposes. In determining the costs, the director shall consider the cost of management and a reasonable return on necessary capital investment.

(b) That prices established pursuant to this section shall insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes, including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable.

(c) That the prices established by the director for the various classes of market milk bear a reasonable and sound economic relationship to each other.

In establishing the prices, the director shall also take into consideration all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62076, and 62077.

SEC. 4. Section 62063 of the Food and Agricultural Code is amended to read:

62063. Subject to the provisions of Sections 62074 and 62075, each stabilization and marketing plan shall contain provisions whereby the director shall provide methods for the establishment of minimum prices for market milk received within a marketing area regardless of whether the milk is subsequently sold or distributed within or without the marketing area within the jurisdiction of this state, and may contain the provisions whether or not the market milk is subsequently sold or distributed outside the jurisdiction of this

state.

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 for the dairy laws of this state to conform to changes in federal law and practice as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 384

An act to amend Sections 10247.5, 10450.6, 10451.5, 10470, 10470.1, 10471, 10472, 10473, 10473.1, 10474, 10474.5, 10475, 10476, 10477, 10479, and 10483 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 10247.5 of the Business and Professions Code is amended to read:

10247.5. In addition to any other remedies that may exist for violations of this article, any licensee who negotiates a loan wherein the licensee represents that he or she is not the lender, collects a fee therefor and is in fact the lender, and if by reason thereof the loan is usurious, he or she shall be liable for damages in the full amount of the commission and expenses charged to the borrower. The Attorney General upon application of the borrower may initiate actions to collect these unlawful charges and all funds collected shall be deposited in the Recovery Account of the Real Estate Fund. Prior to the commencement of any action by the Attorney General, the borrower shall have the absolute right to withdraw the application.

SEC. 2. Section 10450.6 of the Business and Professions Code is amended to read:

10450.6. There shall be separate accounts in the Real Estate Fund for purposes of real estate education and research and for purposes of recovery which shall be known respectively as the Education and Research Account and the Recovery Account. Fifteen percent of the amount of any license fee collected under this part shall be credited to the Education and Research Account and 5 percent of the amount of any license fee collected shall be credited to the Recovery Account. Funds in the Education and Research Account shall be used by the commissioner in accordance with Section 10451.5. The Recovery Account is a continuing appropriation for carrying out the provisions of Article 3 (commencing with Section 10470) of this chapter.

SEC. 3. Section 10451.5 of the Business and Professions Code is amended to read:

10451.5. All money paid into the State Treasury and credited to the Education and Research Account in the Real Estate Fund pursuant to Section 10450.6 is available for appropriation by the Legislature to be used by the commissioner in carrying out the provisions of this part and Chapter 1 (commencing with Section 11000) of Part 2, in the advancement of education and research in real estate at the University of California, state colleges and community colleges, or in contracting for a particular research project in the field of real estate for the state with any university in the State of California accredited by the Western Association of Schools and Colleges, or with any corporation or association qualified to perform such research.

If the balance in the Education and Research Account is more than four hundred thousand dollars ($400,000), the Real Estate Commissioner may authorize the transfer of all or part of such surplus amount to the Real Estate Fund and may authorize the return to the Education and Research Account of all or part of any amount previously transferred to the Real Estate Fund.

SEC. 4. Section 10470 of the Business and Professions Code is amended to read:

10470. If on June 30 of any year, the balance remaining in the Recovery Account in the Real Estate Fund is less than two hundred thousand dollars ($200,000), every licensed broker, when obtaining or renewing any such license within four years thereafter, shall pay, in addition to the license fee, a fee of seven dollars ($7), and every licensed salesperson, when obtaining or renewing such license within four years thereafter, shall pay, in addition to the license fee, a fee of four dollars ($4). Said fees from both broker and salesperson licensees shall be paid into the State Treasury and credited to the Recovery Account.

SEC. 5. Section 10470.1 of the Business and Professions Code is amended to read:

10470.1. (a) In addition to the amount paid into the Recovery Account as set forth in Section 10450.6, the Real Estate Commissioner may authorize the transfer from the Real Estate Fund to the Recovery Account of such amounts as are deemed necessary.

(b) If the balance remaining in the Recovery Account contains more than four hundred thousand dollars ($400,000) the Real Estate Commissioner may authorize the transfer of all or part of such surplus amount to the Real Estate Fund.

(c) The commissioner may authorize the return to the Recovery Account of all or any amount previously transferred to the Real Estate Fund under the provisions of this section.

SEC. 6. Section 10471 of the Business and Professions Code is amended to read:

10471. (a) When any aggrieved person obtains a final judgment in any court of competent jurisdiction against any person or persons

licensed under this part, under grounds of fraud, misrepresentation, deceit, or conversion of trust funds arising directly out of any transaction when the judgment debtor was licensed and performed acts for which a license is required under this part, and which cause of action occurred on or after July 1, 1964, the aggrieved person may, upon the judgment becoming final, file a verified application in the court in which the judgment was entered for an order directing payment out of the Recovery Account of the amount of actual and direct loss in the transaction up to the sum of ten thousand dollars ($10,000) of the amount unpaid upon the judgment, provided that nothing shall be construed to obligate that separate account for more than ten thousand dollars ($10,000) per transaction regardless of the number of persons aggrieved or parcels of real estate involved in the transaction.

In the case of a small claims court judgment, the aggrieved person shall file the verified application in the justice or municipal court in which the judgment was entered in favor of the aggrieved person. The court shall then make a determination as to whether the small claims court judgment was based on facts constituting grounds for recovery under this section and may enter an order directing payment of the small claims court judgment out of the Recovery Account.

A copy of the verified application shall be served upon the commissioner and a copy of the verified application and the notice set forth below shall be served upon the judgment debtor. A certificate or affidavit of such service shall be filed with the court.

Service on the Real Estate Commissioner may be by registered mail addressed to the headquarters office of the Department of Real Estate. Service upon a judgment debtor who holds a current real estate license at the time of filing of the application may be made by registered mail addressed to the judgment debtor at the latest residence or mailing address on file with the department. Otherwise the application and notice shall be personally served or shall be served in a manner approved by the court.

The notice served upon the judgment debtor shall state as follows:

NOTICE: Based on a judgment entered against you in the above-captioned matter, an application for an order directing payment from the Recovery Account of the Real Estate Fund has been filed with the court.

If the Department of Real Estate makes a payment from the Recovery Account pursuant to court order based upon this claim, your real estate license will be automatically suspended upon the effective date of the court order. Reinstatement of your license cannot be granted until the Recovery Account is reimbursed for the amount paid plus interest at the prevailing rate.

If you wish to defend against this claim, you must file a written response with the court within 30 days after having been served with a copy of the application. If you do not file a written response, you will waive your right under Section 10473.1 of the Business and

Professions Code to defend against the claim.

(b) Notwithstanding subdivision (a), the liability of the Recovery Account for which the cause of action occurred on or after January 1, 1980, shall not exceed twenty thousand dollars ($20,000) per transaction, for any transaction which is a basis for the judgment or judgments, regardless of the number of persons aggrieved or the number of parcels of real estate involved, or the number of licensees who participated in the transaction.

SEC. 7. Section 10472 of the Business and Professions Code is amended to read:

10472. (a) The Real Estate Commissioner and the judgment debtor shall each have 30 days after being served with the application within which to file a written response. The court shall thereafter set the matter for hearing upon the petition of applicant. The court shall automatically grant a request of the commissioner for a continuance of the hearing for up to 60 days and may, upon a showing of good cause by any party, continue the hearing for such time as the court deems appropriate.

If the judgment debtor fails to file a written response to the application, the claim may be compromised or settled by the commissioner without a hearing and the court shall, upon joint petition of the applicant and the commissioner, issue an order directing payment out of the Recovery Account.

(b) At the hearing the aggrieved person shall be required to show:

(1) He is not a spouse of debtor, or the personal representative of such spouse.

(2) He has complied with all the requirements of this article.

(3) He has obtained a judgment as set out in Section 10471, stating the amount thereof and the amount owing thereon at the date of the application.

(4) He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.

(5) That by such search he has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(6) That he has diligently pursued his remedies against all the judgment debtors and all other persons liable to him in the transaction for which he seeks recovery from the Recovery Account.

(7) That he is making said application no more than one year after the judgment becomes final.

SEC. 8. Section 10473 of the Business and Professions Code is amended to read:

10473. Whenever the court proceeds upon an application as set forth in Section 10471, it shall order payment out of the Recovery Account only upon a determination that the aggrieved party has a valid cause of action within the purview of Section 10471 and has complied with the provisions of Section 10472.

The commissioner may defend any such action on behalf of the Recovery Account and shall have recourse to all appropriate means of defense and review, including examination of witnesses and the right to relitigate any issues, material and relevant in the proceeding against the Recovery Account, which were determined in the underlying action on which the judgment in favor of the applicant was based. If the judgment in favor of the applicant was by default, stipulation, or consent, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant shall have the burden of proving that the cause of action against the licensee was for fraud, misrepresentation, deceit, or conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the fraud, misrepresentation, deceit, or conversion of trust funds by the licensee, which presumption shall affect the burden of producing evidence.

The commissioner may move the court at any time to dismiss the application when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein, does not form the basis for a meritorious recovery claim within the purview of Section 10471; provided, however, the commissioner shall give written notice at least 10 days before such motion.

The commissioner may, subject to court approval, compromise a claim based upon the application of an aggrieved party. He shall not be bound by any prior compromise or stipulation of the judgment debtor.

SEC. 9. Section 10473.1 of the Business and Professions Code is amended to read:

10473.1. The judgment debtor may defend an action against the Recovery Account on his or her own behalf and shall have recourse to all appropriate means of defense and review, including examination of witnesses. All matters, including, but not limited to, the issues of fraud, misrepresentation, deceit, or conversion of trust funds, finally adjudicated in the underlying action are conclusive as to the judgment debtor and the applicant in the proceeding against the Recovery Account.

SEC. 10. Section 10474 of the Business and Professions Code is amended to read:

10474. If the court finds after the hearing that the claim should be levied against the Recovery Account the court shall enter an order directed to the commissioner requiring payment from the Recovery Account of whatever sum it shall find to be payable upon

the claim pursuant to the provisions of and in accordance with the limitations contained in this article.

Notwithstanding any other provision of this article, the liability of the Recovery Account shall:

(a) Not exceed twenty thousand dollars ($20,000) for any one licensee for which the cause of action occurred on or after July 1, 1964, and prior to January 1, 1975.

(b) Not exceed forty thousand dollars ($40,000) for any one licensee for which the cause of action occurred on or after January 1, 1975, and prior to January 1, 1980.

(c) Not exceed one hundred thousand dollars ($100,000) for any one licensee for which the cause of action occurred on or after January 1, 1980.

SEC. 11. Section 10474.5 of the Business and Professions Code is amended to read:

10474.5. If the amount of liability of the Recovery Account as provided for in Section 10474 is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, such amount shall be distributed among them in the ratio that their respective claims bear to the aggregate of such valid claims, or in such other manner as the court deems equitable. Distribution of such moneys shall be among the persons entitled to share therein, without regard to the order of priority in which their respective judgments may have been obtained or their claims have been filed. Upon petition of the Real Estate Commissioner, the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all such claimants to the Recovery Account may be equitably adjudicated and settled.

SEC. 12. Section 10475 of the Business and Professions Code is amended to read:

10475. Should the commissioner pay from the Recovery Account any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesperson, the license of the broker or salesperson shall be automatically suspended upon the effective date of an order by the court as set forth herein authorizing payment from the Recovery Account. No such broker or salesperson shall be granted reinstatement until he has repaid in full, plus interest at the prevailing legal rate applicable to a judgment rendered in any court of this state, the amount paid from the Recovery Account on his or her account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this article.

SEC. 13. Section 10476 of the Business and Professions Code is amended to read:

10476. If, at any time, the money deposited in the Recovery Account is insufficient to satisfy any duly authorized claim or portion thereof, the commissioner shall, when sufficient money has been deposited in the Recovery Account, satisfy such unpaid claims or

portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of 4 percent a year.

SEC. 14. Section 10477 of the Business and Professions Code is amended to read:

10477. Any sums received by the commissioner pursuant to any provisions of this article shall be deposited in the State Treasury and credited to the Recovery Account.

SEC. 15. Section 10479 of the Business and Professions Code is amended to read:

10479. When, upon the order of the court, the commissioner has paid from the Recovery Account any sum to the judgment creditor, the commissioner shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all his or her right, title and interest in the judgment to the commissioner and any amount and interest so recovered by the Real Estate Commissioner on the judgment shall be deposited to the Recovery Account.

SEC. 16. Section 10483 of the Business and Professions Code is amended to read:

10483. Nothing contained herein shall limit the authority of the commissioner to take disciplinary action against any licensee for a violation of any of the provisions of the Real Estate Law, or of Chapter 1 of Part 2 of this division, or of the rules and regulations of the commissioner; nor shall the repayment in full of all obligations to the Recovery Account by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of the Real Estate Law.

CHAPTER 385

An act to amend Sections 20563 and 20564 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 20563 of the Government Code is amended to read:

20563. Upon the termination of a contract, the board shall hold for the benefit of the members of this system who are credited with service rendered as employees of the contracting agency and for the benefit of beneficiaries of this system who are entitled to receive benefits on account of such service such portion of the accumulated contributions then held by this system and credited to or as having been made by the agency as does not exceed the difference between

(1) an amount actuarially equivalent, including contingencies for mortality fluctuations, as determined by the actuary and approved by the board, to all the system is obligated to pay after the effective date of termination to or on account of persons who are or have been employed by, and on account of service rendered by them to, the agency, and (2) the contributions, with credited interest thereon, then held by this system as having been made by such persons as employees of the agency.

SEC. 2. Section 20564 of the Government Code is amended to read:

20564. If, at the date of termination, the sum of the accumulated contributions credited to, or held as having been made by, the contracting agency and the accumulated contributions credited to or held as having been made by persons who are or have been employed by the agency, as employees of the agency, is less than the actuarial equivalent specified in clause (1) of Section 20563, the agency shall contribute to this system under terms fixed by the board, an amount equal to the difference between the amount specified in clause (1) of Section 20563 and the accumulated contributions. The amount of the difference shall be subject to interest at the actuarial rate from the date of contract termination to the date the agency pays the system. If the agency fails to pay to the board the amount of the difference, all benefits under the contract, payable after the board declares the agency in default therefor, shall be reduced by the percentage that such sum is less than the amount in clause (1) of, Section 20563 as of the date the board declared the default. If the sum of such accumulated contributions is greater than the amount in clause (1) of Section 20563, an amount equal to the excess multiplied by the ratio of the market-to-book value of all investments shall be paid by this system to the contracting agency, including interest at the actuarial rate from the date of contract termination to the date the system makes payment. The market and book values used shall be the values calculated in the most recent annual closing.

The right of an employee of a contracting agency, or his beneficiary, to a benefit under the system, whether before or after retirement or death, is subject to such reduction.

CHAPTER 386

An act to amend Section 32909 of, and to add Article 38 (commencing with Section 38881) to Chapter 5 of Division 15 of, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 32909 of the Food and Agricultural Code is amended to read:

32909. It is unlawful for any person to produce, manufacture, prepare for sale, or sell any of the following:

(a) Any milk, cream, or other product of milk to which has been added, or that contains, any compound of boron, salicylic acid, formaldehyde, or other preservative.

(b) Any milk or product of milk, except as otherwise provided in this division, to which has been added any coloring matter or any gelatin or other substance.

(c) This section does not prohibit the use of harmless coloring matter and common salt (chloride of sodium) in butter and cheese, the use of gelatin, sweetening, eggs or egg products, harmless coloring or flavoring, or edible stabilizer in the manufacture of ice cream, ice milk, sherbet, or edible stabilizer or citric acid in the creaming mixture for cottage cheese, or lowfat cottage cheese, or the use of alkalies approved by the director, in the manufacture of butter, or the adjustment of the acidity of ice cream mix within the limits designated by the director.

(d) Mixed tocopherols (vitamin E) or ascorbic palmitate (vitamin C), as approved by the director, may be added to sterilized cream, sterilized whipped cream, sterilized cream topping, whipped cream, or cream topping, and buttermilk to protect and enhance the flavor of these products.

SEC. 2. Article 38 (commencing with Section 38881) is added to Chapter 5 of Division 15 of the Food and Agricultural Code, to read:

Article 38. Lactose Reduced Milk, Lactose Reduced Lowfat Milk, and Lactose Reduced Nonfat Milk

38881. Lactose reduced milk, lactose reduced lowfat milk, and lactose reduced nonfat milk are market milk products resulting from the treatment of milk, lowfat milk, or nonfat milk by the addition of safe and suitable enzymes to convert sufficient amounts of the lactose to glucose or galactose so that the remaining lactose is less than 30 percent of the lactose in milk, lowfat milk, or nonfat milk.

38882. Lactose reduced milk, lactose reduced lowfat milk, and lactose reduced nonfat milk is required to meet the bacterial standards for market milk after pasteurization and is required to contain not more than 10 coliform colonies per milliliter. It is required to be maintained at a temperature not to exceed 45 degrees Farenheit until delivered to the consumer, and is required to meet all other compositional requirements for market milk, lowfat milk, and nonfat milk except that the minimum solids-not-fat content for lactose reduced lowfat milk shall be 8.7 percent. It is required to be labeled as lactose reduced milk, lactose reduced lowfat milk, or lactose reduced nonfat milk.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 387

An act to add Sections 18550, 18551, 18552, 19064, and 19065 to the Government Code, relating to state civil service.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 18550 is added to the Government Code, to read:

18550. A "full-time" position or appointment is a position or appointment in which the employee is to work the amount of time required for the employee to be compensated at a full-time rate.

SEC. 2. Section 18551 is added to the Government Code, to read:

18551. A "part-time" position or appointment is a position or appointment in which the employee is to work a specific fraction of the full-time work schedule.

SEC. 3. Section 18552 is added to the Government Code, to read:

18552. An "intermittent" position or appointment is a position or appointment in which the employee is to work periodically or for a fluctuating portion of the full-time work schedule.

SEC. 4. Section 19064 is added to the Government Code, to read:

19064. An employee holding a full- or part-time appointment shall be entitled to the amount of employment specified at the time of the appointment, subject to provisions of law and rule governing work force reduction and separation from civil service positions.

SEC. 5. Section 19065 is added to the Government Code, to read:

19065. The board may establish rules specifying minimum service and eligibility requirements governing movement of employees between full-time, part-time, and intermittent positions.

CHAPTER 388

An act to amend Section 11709 of the Food and Agricultural Code, relating to pest control.

[Approved by Governor July 25, 1983. Filed with Secretary of State July 26, 1983.]

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

SECTION 1. Section 11709 of the Food and Agricultural Code is amended to read:

11709. A person not regularly engaged in the business of pest control that operates only in the vicinity of his or her own property and for the accommodation of his or her neighbors is not required to pay the fee specified by Section 11703, but is required to procure a license. The person shall register with the commissioner as provided in Section 11732, and is subject to all other provisions of this division The determination of the director that a person is engaged in the business of pest control beyond the vicinity of his or her own property or for the accommodation of others than his or her neighbors is final.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 389

An act to amend Sections 650, 11580.1, and 11620 of the Insurance Code, relating to insurance.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983.]

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

SECTION 1. Section 650 of the Insurance Code is amended to read:

650. Whenever a right to rescind a contract of insurance is given to the insurer by any provision of this part such right may be exercised at any time previous to the commencement of an action on the contract. The rescission shall apply to all insureds under the contract, including additional insureds, unless the contract provides

otherwise.

SEC. 2. 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, including the insurer's obligation to defend, 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 or liability for bodily injury to an insured whenever the ultimate benefits of that indemnification accrue directly or indirectly to an insured.

(6) Liability for damage to property owned, rented to, transported by, or in the charge of, an insured. A motor vehicle operated by an insured shall be considered to be property in the 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 including those persons who would have otherwise been included within the policy's definition of an insured but, by agreement, are subject to the limitations of paragraph (1) of subdivision (d).

(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 motor vehicle is being used or operated by a natural person or persons designated by name. These limitations shall apply to any use or operation of a motor vehicle including the negligent or alleged negligent entrustment of a motor vehicle to such designated person or persons. 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 leasing vehicles for those vehicles which are leased for a term in excess of six months, or 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. If the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, and the lessor includes in the lease automobile liability insurance, the terms and limits of which are not otherwise specified in the lease, the named insured shall incorporate a provision in each vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(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. 3. Section 11620 of the Insurance Code is amended to read:

11620. The commissioner, after a public hearing, shall approve or issue a reasonable plan for the equitable apportionment, among insurers admitted to transact liability insurance, of those applicants for automobile bodily injury and property damage liability insurance who are in good faith entitled to but are unable to procure such insurance through ordinary methods. The commissioner shall require the payment of five hundred dollars ($500), in advance, as a fee for the filing of amendments to the plan with the commissioner.

The commissioner may approve or issue reasonable amendments to such plan if he or she first holds a public hearing to determine whether the amendments are in keeping with the intent and purpose of this section. All such insurers shall subscribe to the plan and its amendments and, subject to Section 11621, participate therein.

Notice of the public hearings required by this section shall be published at least 45 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, in two newspapers of general circulation, one published in the City and County of San Francisco, and the other published in the City of Los Angeles.

CHAPTER 390

An act to amend Sections 675 and 707 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 675 of the Welfare and Institutions Code is amended to read:

675. (a) All cases under the provisions of this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at that session. Except as provided in subdivision (b), no person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

(b) Hearings for two or more minors may be heard upon the same rules of joinder, consolidation, and severance as apply to trials in a court of criminal jurisdiction.

SEC. 2. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not

be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) The provisions of subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Assault with intent to murder or attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(d) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is convicted in a court of criminal jurisdiction of any offense listed in subdivision (b) of Section 707, the finding of unfitness which preceded the conviction shall be applicable to any offense listed in subdivision (b) of Section 707 which is alleged to have been committed subsequent to the conviction. The probation officer shall not be required to investigate or submit a report regarding the fitness of a minor for any such subsequent charge. This subdivision shall not be construed to affect the right to appellate review of a finding of unfitness or the

duration of the jurisdiction of the juvenile court as specified in Section 607.

CHAPTER 391

An act to add Section 4730.6 to the Health and Safety Code, relating to sanitation districts.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 4730.6 is added to the Health and Safety Code, to read:

4730.6. Notwithstanding Sections 4730, 4730.1, and 4730.2 or any other provision of law, the governing board of the Ventura Regional Sanitation District shall be a board of directors comprised of five members, as follows:

(a) Two members representing the County of Ventura, appointed by the board of supervisors from its own membership.

(b) Two members representing cities in the county, each of whom shall be an elected mayor or city council member, appointed by the city selection committee.

(c) One member representing special districts in the county, who shall be an elected member of the board of directors of a special district which has a governing board separately elected from any board of supervisors or city council. The representative of special districts shall be appointed by a committee consisting of the presiding officer of all of these independent special districts that would be entitled to representation on the Ventura County Sanitation District Board of Directors under Section 4730.1, if that section were applicable to the Ventura County Sanitation District.

CHAPTER 392

An act to amend Section 4012 of the Insurance Code, relating to mutual insurers.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983.]

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

SECTION 1. Section 4012 of the Insurance Code is amended to read:

4012. Domestic mutual insurers, incorporating or qualifying to

transact any or all of the classes of insurance designated in Sections 100 through 123 and 700.01, shall be subject to all provisions of this code applicable to other incorporated insurers, except where otherwise provided. Domestic mutual insurers shall not be required to have or issue capital stock or shares nor shall they be required to distribute an annual report to a member other than at the time of the initial policy issuance or once each year on renewal. The provisions of Section 1140 shall apply to such an insurer except that the provisions of the Corporation Law referring to shareholders or members shall be applied as though such provisions referred to the policyholders or members of a mutual.

CHAPTER 393

An act to amend Sections 73772 and 73773 of, and to add Section 73771.1 to, the Government Code, relating to government.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983.]

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

SECTION 1. Section 73771.1 is added to the Government Code, to read:

73771.1. The judges of the Municipal Court, Central Judicial District of Marin County, shall appoint one commissioner. The commissioner shall possess the same qualifications as the law requires of the judge of the court. Such appointment shall be made pursuant to Section 72190 of the Government Code.

SEC. 2. Section 73772 of the Government Code is amended to read:

73772. There shall be one clerk, who shall be the administrative officer of the court and who shall receive an annual salary recommended by the municipal court and approved by the board of supervisors.

Any change in the salaries in effect immediately prior to January 1, 1984, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 3. Section 73773 of the Government Code is amended to read:

73773. (a) The clerk, with the approval of the judges of said court, may appoint one chief deputy clerk, 16 deputy clerks grade IV, 17 deputy clerks grade III, 14 deputy clerks grade II, 10 deputy clerks grade I, one secretary, two court key input operators, and eight intermediate typists and such other employees as the board of supervisors approve upon the recommendation of the municipal court, each of whom shall receive a salary recommended by the

municipal court and approved by the board of supervisors. Any appointee shall be compensated at the first step and advance to each higher step upon completion of each year of service. Upon the recommendation of the municipal court and approval of the board of supervisors, such employees may be employed at or may be granted a special step increase to any step within the salary range on the basis of experience or qualifications.

(b) Any change in the salaries in effect immediately prior to January 1, 1984, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 394

An act to amend Sections 12852 and 12860 of the Public Utilities Code, relating to municipal utility districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1983 Filed with Secretary of State July 26, 1983]

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

SECTION 1. Section 12852 of the Public Utilities Code is amended to read:

12852. The provisions of Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code, the limitations on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code and on the discount set forth in Section 54418 of the Government Code, and the requirements for a public sale for refunding revenue bonds set forth in Sections 53573, 54388, and 54661 of the Government Code shall not apply to the issuance and sale of bonds pursuant to this article. Whenever a district proposes to exercise the power to issue bonds pursuant to this article, the board shall adopt a preliminary resolution declaring its intention to authorize the issuance of bonds, which resolution shall specify all of the following:

(a) The purpose for which the proposed bonds are to be issued.

(b) The maximum principal amount of the bonds then proposed to be issued.

(c) The maximum term for which any of the bonds are to run.

(d) The maximum rate of interest to be payable upon the bonds

which rate shall be determined by the board.

(e) The maximum discount, which shall be determined by the board.

SEC. 2. Section 12860 of the Public Utilities Code is amended to read:

12860. Bonds issued by a district, pursuant to Article 8 (commencing with Section 53540) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, may bear interest at the rate or rates as may be fixed by the board of directors without regard to the limitations set forth in Section 53541 of the Government Code, and may be sold at a discount, as determined by the board of directors.

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:

Some municipal utility districts have been required to issue bonds at the high interest rates that prevailed during the last few years. The recent substantial drop in bond market interest rates makes it possible for those districts to achieve substantial savings for their ratepayers by issuing refunding bonds at this time. It is necessary that this act take effect immediately so that these savings can be realized before interest rates change again.

CHAPTER 395

An act to amend Sections 20017.77, 20017.79, 20336, 20393, 20567.8, 20930, 20934, 50952, 68504, 71180.5, 75025, 75025.1, 75033, 75060.6, 75096, 75096.1, 75096.2, 75096.3, and 75098 of, to amend and renumber Sections 20860.5, 20930.6, 20936, and 20937 of, to add Sections 20895.1, 20898.1, 20899, 20901, and 20902 to, and to repeal Section 20653 of, the Government Code, relating to public retirement systems.

[Approved by Governor July 25, 1983. Filed with Secretary of State July 26, 1983.]

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

SECTION 1. Section 20017.77 of the Government Code is amended to read:

20017.77. "State safety member" shall also include officers and employees in (a) the Department of Corrections employed to perform the duties now performed in positions with the following class titles: Director of Corrections; Deputy Director, Department of Corrections; Deputy Director, Institutions, Camps and Program Services Division; Deputy Director, Parole and Community Services; warden; Warden—San Quentin; superintendent II and III, Department of Corrections; deputy superintendent; correctional

administrator; program administrator, correctional institution; all classes of correctional program supervisor; correctional captain; correctional lieutenant; correctional sergeant; correctional officer; all classes of women's correctional supervisor; Assistant Deputy Director, Parole and Community Services; all classes of parole administrator, adult parole; all classes of parole agent, adult parole; Assistant Director, Investigations and Law Enforcement Liaison; senior special agent; special agent; all classes of women's parole agent; medical facility superintendent; Superintendent, California Institution for Women; all classes of correctional counselor; Chief and Assistant Chief Transportation Officer, (b) the Department of the Youth Authority employed to perform the duties now performed in positions with the following class titles: Director, Department of the Youth Authority; Chief, Division of Parole and Community Services; Deputy Chief, Division of Parole and Community Services; program administrator, correctional school; assistant superintendent, correctional school; all classes of superintendent, correctional school; Youth Authority camp superintendent; assistant superintendent, Youth Authority camp; Chief, Division of Institutions; treatment team supervisor; all classes of transportation officers, Youth Authority; security officer; all classes of group supervisors; all classes of parole agent, Youth Authority; all classes of youth counselor; supervisor community treatment programs; correctional casework training supervisor; correctional casework trainee; all classes of correctional counselor, (c) the Board of Prison Terms employed to perform duties now performed in positions with the following class titles: all classes of parole officer; all classes of correctional counselor and the Chief of Investigation, and (d) the Youthful Offender Parole Board employed to perform duties now performed in positions with the following class titles: all classes of parole agent.

SEC. 2. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Board of Prison Terms, Department of Corrections or the Department of the Youth Authority in the following classifications:

Classification Code	*Classification*
0617	Farm manager
0648	Crops farmer
0679	Dairy manager
0682	Dairy supervisor
0683	Assistant Dairy Operator
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
2384	Supervisor of Commercial Diver Training

2311	Youth Authority Teacher
2429	Vocational Instructor (Fire Science) (Correctional Facility)
2433	Vocational Instructor (Heavy Equipment Repair) (Correctional Facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Production Manager III, Correctional Industries
7157	Production Manager II, Correctional Industries
7156	Production Manager I, Correctional Industries
7154	Industrial Maintenance Superintendent
7170	Detergent Plant Superintendent
7172	Wood Products Factory Superintendent
7175	Assistant Wood Products Factory Superintendent
7178	Wood Products Factory Supervisor
7179	Upholstery Supervisor
7190	Metal Products Factory Superintendent
7189	Assistant Metal Products Factory Superintendent
7191	Metal Products Factory Supervisor
7192	Tool and Die Making Supervisor
7195	Textile Products Factory Superintendent
7196	Bedding Factory Superintendent
7198	Textile Products Factory Supervisor
7201	Tobacco Factory Superintendent
7205	Shoe Factory Superintendent
7206	Shoe Factory Supervisor (Lasting through Packing)
7207	Shoe Factory Supervisor (Cutting and Fitting)
7209	Knitting Mill Superintendent
7210	Knitting Mill Supervisor
7211	Knit Goods Finishing Supervisor
7214	Printing Superintendent, Correctional Industries
7215	Industrial Maintenance Supervisor
7216	Printing Supervisor, Correctional Industries
7218	Book repair and Bindery Supervisor, Correctional Industries

2108	Laundry Superintendent, Correctional Industries
2109	Laundry Supervisor, Correctional Industries
8215	Senior Medical Technical Assistant
9908	Supervising Social Worker II, Youth Authority
9910	Supervising Social Worker I, Youth Authority
9911	Social Worker, Youth Authority
0716	Supervising Groundskeeper II (correctional facility)
0718	Supervising Groundskeeper I (correctional facility)
0720	Lead Groundskeeper (correctional facility)
0743	Groundskeeper (correctional facility)
2004	Janitor Supervisor II (correctional facility)
2005	Janitor Supervisor I (correctional facility)
2006	Janitor (correctional facility)
2044	Supervising Housekeeper I (correctional facility)
2046	Housekeeper (correctional facility)
2068	Shoemaker (correctional facility)
2077	Seamer (correctional facility)
2080	Assistant Seamer (correctional facility)
2084	Barbershop Manager (correctional facility)
2086	Barber (correctional facility)
2111	Laundry Supervisor II (correctional facility)
2114	Laundry Supervisor I (correctional facility)
2117	Laundry Worker (correctional facility)
2120	Laundry Finisher (correctional facility)
2150	Food Manager (correctional facility)
2147	Food Administrator II (correctional facility)
2153	Food Administrator I (correctional facility)
2182	Supervising Cook II (correctional facility)
2183	Supervising Cook I (correctional facility)

2186	Cook II (correctional facility)
2187	Cook I (correctional facility)
2221	Baker II (correctional facility)
2224	Baker I (correctional facility)
2245	Butcher—Meat Cutter II (correctional facility)
2195	Food Service Assistant II (correctional facility)
2196	Food Service Assistant I (correctional facility)
2305	Supervisor of Academic Instruction (correctional facility)
2284	Teacher (arts and crafts) (correctional facility)
2285	Teacher (business education) (correctional facility)
2287	Teacher (elementary education) (correctional facility)
2290	Teacher (high school education) (correctional facility)
2297	Teacher (ethnic studies) (correctional facility)
2291	Teacher (home economics) (correctional facility)
2298	Teacher (librarian) (correctional facility)
2286	Teacher (cerebral palsied children) (correctional facility)
2295	Teacher (recreation and physical education) (correctional facility)
2294	Teacher (music) (correctional facility)
2371	Teacher (speech development and correction) (correctional facility)
2373	Teacher (mentally retarded deaf children) (correctional facility)
2292	Teacher (mentally retarded children) (correctional facility)
2288	Teacher (emotionally/learning handicapped) (correctional facility)
2289	Teacher (family life education) (correctional facility)
2423	Vocational Instructor (dog grooming and handling) (correctional facility)
2665	Vocational Instructor (powerplant mechanics) (correctional facility)
2387	Vocational Instructor (airframe mechanics) (correctional facility)

2396	Vocational Instructor (auto body and fender repair) (correctional facility)
2398	Vocational Instructor (auto mechanics) (correctional facility)
2399	Vocational Instructor (baking) (correctional facility)
2400	Vocational Instructor (bookbinding) (correctional facility)
2417	Vocational Instructor (carpentry) (correctional facility)
2420	Vocational Instructor (cosmetology) (correctional facility)
2422	Vocational Instructor (culinary arts) (correctional facility)
2628	Vocational Instructor (merchandising) (correctional facility)
2425	Vocational Instructor (drycleaning works) (correctional facility)
2426	Vocational Instructor (electrical work) (correctional facility)
2428	Vocational Instructor (electronics) (correctional facility)
2431	Vocational Instructor (furniture refinishing and repair) (correctional facility)
2432	Vocational Instructor (garment making) (correctional facility)
2597	Vocational Instructor (household appliance repair) (correctional facility)
2598	Vocational Instructor (industrial arts) (correctional facility)
2599	Vocational Instructor (instrument repair) (correctional facility)
2600	Vocational Instructor (janitorial service) (correctional facility)
2601	Vocational Instructor (landscape gardening) (correctional facility)
2611	Vocational Instructor (laundry work) (correctional facility)
2614	Vocational Instructor (machine shop practice) (correctional facility)
2615	Vocational Instructor (masonry) (correctional facility)
2619	Vocational Instructor (meat cutting) (correctional facility)
2627	Vocational Instructor (mechanical drawing) (correctional facility)

2630	Vocational Instructor (mill and cabinet work) (correctional facility)
2640	Vocational Instructor (offset printing) (correctional facility)
2644	Vocational Instructor (painting) (correctional facility)
2661	Vocational Instructor (plumbing) (correctional facility)
2666	Vocational Instructor (printing) (correctional facility)
2667	Vocational Instructor (radiologic technology) (correctional facility)
2668	Vocational Instructor (refrigeration and air-conditioning repair) (correctional facility)
2669	Vocational Instructor (sewing machine repair) (correctional facility)
2670	Vocational Instructor (sheet metal work) (correctional facility)
2671	Vocational Instructor (shoemaking) (correctional facility)
2672	Vocational Instructor (silk screening process) (correctional facility)
2673	Vocational Instructor (storekeeping and warehousing) (correctional facility)
2674	Vocational Instructor (typewriter repair) (correctional facility)
2675	Vocational Instructor (upholstering) (correctional facility)
2419	Vocational Instructor (commercial diver training) (correctional facility)
2677	Vocational Instructor (welding) (correctional facility)
2676	Vocational Instructor (vocational nursing) (correctional facility)
2945	Senior Librarian (correctional facility)
6216	Building Maintenance Worker (correctional facility)
6221	Warehouse Worker (correctional facility)
1502	Warehouse Manager II (correctional facility)
1504	Warehouse Manager I (correctional facility)
1505	Materials and Stores Supervisor II

	(correctional facility)
1508	Materials and Stores Supervisor I (correctional facility)
6379	Heavy Truck Driver (correctional facility)
6382	Truck Driver (correctional facility)
6392	Automotive Equipment Operator II (correctional facility)
6394	Automotive Equipment Operator I (correctional facility)
6471	Carpenter Supervisor (correctional facility)
6483	Carpenter I (correctional facility)
6521	Painter Supervisor (correctional facility)
6524	Painter II (correctional facility)
6474	Carpenter II (correctional facility)
6528	Painter I (correctional facility)
6534	Electrician Supervisor (correctional facility)
6538	Electrician II (correctional facility)
6544	Electrician I (correctional facility)
6545	Plumber Supervisor (correctional facility)
6550	Plumber I (correctional facility)
6557	Steamfitter Supervisor (correctional facility)
6559	Steamfitter (correctional facility)
6617	Mason (correctional facility)
6941	Maintenance Mechanic (correctional facility)
6643	Locksmith (correctional facility)
6699	Chief Engineer I (correctional facility)
6705	Stationary Engineer Supervisor (correctional facility)
6708	Stationary Engineer II (correctional facility)
6697	Stationary Engineer I (correctional facility)
6709	Boilerroom Tender (correctional facility)
6715	Refrigeration Engineer (correctional facility)
6724	Water and Sewage Plant Supervisor (correctional facility)
6748	Chief of Plant Operation III (correctional facility)
6751	Chief of Plant Operation II (correc-

	tional facility)
6754	Chief of Plant Operation I (correctional facility)
6763	Supervisor of Building Trades (correctional facility)
6865	Equipment Maintenance Supervisor (correctional facility)
6867	Lead Automobile Mechanic (correctional facility)
6868	Automobile Mechanic (correctional facility)
6893	Automotive Pool Manager I (correctional facility)
6916	Electronics Technician (correctional facility)
8217	Medical Technical Assistant (correctional facilities)
2645	Vocational Instructor (Plastering) (correctional facility)
7200	Dry Cleaning Plant Supervisor
6772	Utility Shops Supervisor (correctional facility)
6801	Machinist (correctional facility)
6826	Heavy Equipment Mechanic (correctional facility)
2688	Vocational Instructor (Eyewear Manufacturing) (correctional facility)
2940	Supervising Librarian (correctional facility)
6504	Plumber II (correctional facility)
7194	Assistant Textile Products Factory Superintendent
7197	Bedding Factory Supervisor
7217	Book Repair and Bindery Superintendent, Correctional Industries
6696	Chief Engineer II (correctional facility)
2000	Janitor Supervisor III (correctional facility)
6222	Laborer (correctional facility)
6955	Fusion Welder (correctional facility)
6213	Skilled Laborer (correctional facility)

Any such officer or employee in employment on the operative date of this section, may elect by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his rights

and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

Any officer or employee employed in the last classification listed in this section who is in employment on the operative date of the amendments to this section enacted during 1979 may elect, by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election, the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member employed in the last classification listed in this section until such time as a ruling or regulation authorizing the inclusion of persons employed in such classifications within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 3. 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. Except as provided in Section 20492, no contract or contract amendment entered into after January 1, 1981, shall contain any

provision excluding persons on an irregular employment basis.

SEC. 4. Section 20393 of the Government Code is amended to read:

20393. Notwithstanding any other provision of this part, 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: (1) 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 (2) 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 (3) while the member is in service, entered within six months after discontinuing state service, as a member of a retirement system established under the County Employees Retirement Law of 1937. 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. 5. Section 20567.8 of the Government Code is amended to

read:

20567.8. Notwithstanding any provision of this article, when all or a portion of one agency's contract is merged into that of another, the retirement allowances shall be computed separately for service under the former contract and service under the latter contract. In such cases, a transferred member shall be subject to the terms and conditions of the latter agency's contract as if he were a new employee of the latter agency at the time of transfer.

Furthermore, when all or a portion of one agency's contract is merged into that of another, and when eligibility for membership is different between the two contracts, such differences shall not create prior service liabilities as against either agency, and transferred members shall not be entitled under either such contract to credit for service rendered when they were not eligible for membership.

SEC. 6. Section 20653 of the Government Code is repealed.

SEC. 7. Section 20860.5 of the Government Code is amended and renumbered to read:

20900. Time during which a member is excused from performance of his duties, whether or not he is required to perform any portion of such duties during such time, and for which he receives compensation, but in an amount less than the full compensation earnable by him while performing his duties when not so excused, such as sabbatical leave, shall be credited as service in the proportion that the compensation paid to the member bears to the full compensation which would be earnable by him while performing his duties on a full-time basis; provided, however, that any such member shall receive full-time credit for such time if after returning to the employment from which he was excused and at any time prior to retirement he elects to and does contribute to the retirement fund the amount necessary to make the accumulated contributions standing to his credit in his individual account the amount it would be had he not been so absent plus the contributions that would have been made by his employer in respect to him had he not been so absent plus the interest which would have accrued to such member and employer contributions if they had been made on the date of his return to employment. Payments shall be by lump sum at the time of election or in installments beginning immediately upon such election and subject to board rule.

SEC. 8. Section 20895.1 is added to the Government Code, to read:

20895.1. "Leave of absence" also means absence from state service because of illness which arose out of and in the course of employment and for which the member received temporary disability benefits under the Labor Code during such absence and did not receive full compensation as distinguished from such disability benefits for the period of absence.

SEC. 9. Section 20898.1 is added to the Government Code, to read:

20898.1. "Leave of absence" also means any time during which a

member is granted an approved leave for the purpose of service of up to two years with a university, college, local, state, federal or foreign governmental agency, or nonprofit organization, if he returns to employment within the terms and conditions under which the leave was granted; provided, however, that any member electing to receive credit for such leave of absence shall in addition to contributions otherwise required by this article contribute an amount equal to the contribution that would have been made on behalf of the member had the member not been absent, assuming that the employer rate of contribution in effect at the time of election had been in effect during the absence.

SEC. 10. Section 20899 is added to the Government Code, to read:

20899. "Leave of absence" means time during which a state employee was absent from state service on war relocation leave.

"War relocation leave" means the period of absence from state service occasioned by the evacuation and relocation of a member pursuant to orders issued by the commanding officer of the Western Defense Command in March 1942, for the evacuation of persons of Japanese descent from such area, where the member was in state service 90 days before or after March 5, 1942, and who later returned to state service. War relocation leave of a member shall include the period of time from the separation of a member from state service until his return to state service or July 1, 1947, whichever is earlier.

This section shall also be applicable to school members who were absent from service with a school district or a county superintendent of schools on war relocation leave.

When a school member received service credit under this section, his school employer shall transmit to the retirement fund a lump-sum amount determined by the board which is the actuarial equivalent of the cost for such service credit as of the date of election by the member to receive service credit under this section less the contributions paid by the school member on account of such service credit.

SEC. 11. Section 20901 is added to the Government Code, to read:

20901. Unless otherwise provided in this article, a member electing to receive service credit for time during which he or she was absent from state service shall contribute in a lump sum or by installments over such period and subject to such minimum payments as may be prescribed by regulations of the board an amount equal to (a) the contributions he or she would have made to the system for the period for which current service credit is granted, assuming that the rate of contribution under his or her employer's formula at the rate age applicable to him or her at the beginning of his or her first subsequent period of service in membership and his or her compensation earnable on that date had applied to him or her during the period for which credit is granted, plus (b) such added contributions as may be specially required under this article as a condition for crediting a particular absence, plus (c) the interest which would have accrued to such contributions if they

had been on deposit at the beginning date of his or her first subequent period of service in membership, from that date until the date of completion of payments assuming that the annual interest rate in effect on the date of election had been in effect throughout such period. The beginning date of the first subsequent period of service for purposes of computation of contributions and interest shall be deemed to be the end of the period of service credited for a member who has no subsequent return to service.

Service shall be credited as current or prior service, or both, as it would be credited if the member had been in state service during his or her absence. All contributions of a member under this article shall be considered to be and shall be administered as normal contributions.

SEC. 12. Section 20902 is added to the Government Code, to read:

20902. Benefits based on service credited under this article for an absence which are in excess of the portion paid from member contributions shall be paid from contributions of the employer from whose employment the member was absent.

SEC. 13. Section 20930 of the Government Code is amended to read:

20930. "Public service" for purposes of this article means the following:

(a) Employment of the state or a contracting agency while not a member of this system, but after persons employed in the status of the member were eligible for membership in this system.

(b) Employment of the state or a contracting agency while the employee was excluded from membership because of serving on a part-time basis or because of his failure to exercise his right of election of membership under Section 20360, 20361 or 20364.

(c) Employment of the state or a contracting agency while the employee was excluded from membership in an employment in which persons since have become eligible for membership and which is not creditable to the member under other provisions of this part.

(d) Employment in the State Emergency Relief Administration or the State Relief Administration subsequent to March, 1933, regardless of the source of the compensation paid for such employment.

(e) Employment as an academic employee of the University of California prior to 1963; provided, however, that any member electing to receive credit for such public service shall in addition to other contributions required by this article contribute an amount equal to the contributions which would have been made on his behalf by the state had he been in membership during such employment, assuming that the state rate of contribution in effect at the time of election has been in effect during such employment.

(f) Employment of the state in which the person was not eligible for membership in the system if such ineligibility was solely because his compensation was paid from other than state-controlled funds;

provided, however, that time spent in work as a work relief recipient under programs such as, but not limited to, the Works Progress Administration, the Civil Works Administration, the Federal Emergency Relief Administration, the National Youth Administration, and the Civilian Conservation Corps, shall not constitute public service.

(g) Employment in a function formerly performed by a public agency other than a contracting agency and assumed by a contracting agency where the employees who performed such functions are or were transferred to or employed by such contracting agency without change in occupation or position.

(h) Civilian service as an employee or officer of an agency of the government of the United States which performed functions the same as or substantially similar to those performed by this state prior to January 1, 1942, and which were transferred from the state to such agency, including military service in any branch of the armed forces of the United States performed by an individual on military leave of absence from such federal employment, if all the following conditions exist:

(1) Prior to performing such federal service he was employed by the state.

(2) He was laid off from state service or would have been so laid off if he had not been absent in military service because of the transfer of the functions of the state to an agency of the United States government.

(3) Subsequent to his layoff from state service he was employed by the United States government in an agency performing functions the same as or substantially similar to those of the state agency from which he was laid off

(4) After his separation from federal service, he was employed by a state agency or

(5) In lieu of subparagraphs (1), (2), and (3), the United States government pays to the state or an agency of the state, funds equal to contributions which would have been made by the state had the member been in state service for the period of his public service with respect to members who were not employed by the state prior to entering such federal employment or whose state service prior to entering such federal employment was terminated for reasons other than the transfer of the function.

(i) Employment in a district, prior to the time the district became a subsidiary district of a city, of a person who was employed by the city following such reorganization to render service to the district and who became a member in such employment.

SEC. 14. Section 20930.6 of the Government Code is amended and renumbered to read:

20898. "Leave of absence" also means any time during which a state member, other than a school member, was excused from performance of his duties on approved leave for the purpose of further education. Any member electing to receive credit for such

public service shall, in addition to contributions and interest otherwise required by this article, contribute an amount equal to (1) the contribution that would have been made by his employer in respect to him had he not been absent, assuming that the employer rate of contribution in effect at the time of election had been in effect during the absence and (2) the amount of interest that would have accrued to the member and employer contributions if they had been deposited at the beginning date of the member's first subsequent period of service in membership until the date of completion of payments at the interest rate in effect on the date of election. Credit granted under this section may not exceed two years.

This section shall be applicable to persons who are members or became members of this system on and after January 1, 1975.

SEC. 15. Section 20934 of the Government Code is amended to read:

20934. Benefits based on service credited under this article in excess of the portion paid from member contributions shall be paid from the contributions of the employer in whose employment the service was rendered or the right to receive the service credit for an employment constituting public service was acquired, whichever the case may be.

SEC. 16. Section 20936 of the Government Code is amended and renumbered to read:

20899.1. "Leave of absence" also means time during which an employee of a contracting agency was absent from service with any contracting agency on war relocation leave.

"War relocation leave" means the period of absence from service occasioned by the evacuation and relocation of a local member pursuant to orders issued by the commanding officer of the Western Defense Command in March 1942, for the evacuation of persons of Japanese descent from such area, where the local member was in service with any contracting agency on March 5, 1942, and later returned to such service prior to July 1, 1947.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section takes effect, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 17. Section 20937 of the Government Code is amended and renumbered to read:

20899.5. A contracting agency may elect to refund all or a portion of the employer contributions that were made by members or retired persons in order to receive credit for war relocation leave. The refund shall be a charge against the agency's current service reserve account. The refund may be made only to such a member or retired person or the spouse of such persons and only during the 12 months following the date that this section is made applicable to

the employees of a contracting agency.

Notwithstanding Section 20740, a contracting agency which elects prior to July 1, 1979, to become subject to this section shall be an "employer" for purposes of Chapter 6 (commencing with Section 20740).

SEC. 18. Section 50952 of the Government Code is amended to read:

50952. For the purposes of this chapter, unless the context otherwise requires, the definitions set forth below shall mean the following:

(a) "Actuarial interest rate" means the interest rate fixed by the board for purposes of actuarial valuation of the assets and liabilities of the award system.

(b) "Annual interest rate" means the interest rate fixed by the board for purposes of crediting interest.

(c) "Award" means monthly payments for life derived from contributions by a department.

(d) "Award system" means the Volunteer Firefighters Length of Service Award System established by this chapter.

(e) "Board" means the Board of Administration of the Public Employees' Retirement System.

(f) "Certified current service credit" means credit certified pursuant to Section 50959 for services rendered after the contract operative date.

(g) "Contract operative date" means the first day of the month next following the date on which the contract becomes effective.

(h) "Department" means a regularly organized fire department of a city, county, city and county, or district, having official recognition of the government of the city, county, city and county, or district in which such department is located.

(i) "Fund" means the Volunteer Firefighters Length of Service Award System Fund created by this chapter.

(j) "Member" means a volunteer of a department, the governing body of which has contracted with the Public Employees' Retirement System under this chapter, and who has been certified by a qualifications review commission as having qualified for at least one year of current service credit. Membership, once established, continues indefinitely unless membership is terminated pursuant to Section 50957.

(k) "Service credit" means the aggregate of certified current service credit.

(*l*) "Service year" means the period beginning July 1 and ending June 30 of the following year.

(m) "Volunteer" means any person registered as a volunteer member of a regularly organized fire department as defined in subdivision (h).

(n) "Certified prior service credit" means credit for service performed prior to the contract operative date as certified by a qualifications review commission. That prior service shall be

credited in the award system only in addition to current service for the same department or its predecessor. Certified prior service credit is optional to the contracting agency. The provisions of this subdivision shall not apply to any department or to its volunteers unless and until the department elects to be subject to it by an amendment to its contract which is approved by the electorate pursuant to Section 50973.

In no event shall any member be credited with more than eight years of prior service credit.

SEC. 19. Section 68504 of the Government Code is amended to read:

68504. Upon receiving information of the death, removal, or resignation of any justice of the Supreme Court or of the courts of appeal, or a judge of the superior court, the Secretary of the Judicial Council shall immediately give the Controller and the Judges' Retirement System written notice of such death, removal, or resignation.

SEC. 20. Section 71180.5 of the Government Code is amended to read:

71180.5. Upon the appointment, election, death, removal or resignation of a judge of a municipal or justice court, the county clerk shall immediately give the Judges' Retirement System written notice thereof.

SEC. 21. Section 75025 of the Government Code is amended to read:

75025. Every judge who has the age and service qualifications specified in one of the following subdivisions, and who is not ineligible for retirement under Section 75026, shall be retired for service upon filing notice of retirement with the Judges' Retirement System, specifying the date upon which his retirement is to become effective:

(a) Age 70, with an aggregate of 10 years of service as a judge within the 15 years immediately preceding the effective date of retirement.

(b) Age 69, with an aggregate of 12 years of service as a judge within the 16 years immediately preceding the effective date of retirement.

(c) Age 68, with an aggregate of 14 years of service as a judge within the 18 years immediately preceding the effective date of retirement.

(d) Age 67, with an aggregate of 16 years of service as a judge within the 20 years immediately preceding the effective date of retirement.

(e) Age 66, with an aggregate of 18 years of service as a judge within the 22 years immediately preceding the effective date of retirement.

(f) Age 65, with an aggregate of 20 years of service as a judge within the 24 years immediately preceding the effective date of retirement.

(g) Age 70, with an aggregate of 20 years of service as a judge, the last five years of which has been served immediately preceding the effective date of retirement.

(h) Age 60, with an aggregate of 20 years of service as a judge.

Upon the effective date of the retirement of any such judge, the judicial office from which he has retired shall become vacant, and a successor shall thereupon be appointed to fill the vacancy.

SEC. 22. Section 75025.1 of the Government Code is amended to read:

75025.1. A judge whose service is discontinued by the expiration of his term of office and who is otherwise eligible to retire under this chapter may file the notice of retirement provided for in Section 75025 or an election to retire under Section 75033.5 within 90 days after such termination, which notice or election shall be effective as though filed at the close of his term. A judge whose service is discontinued by other than the expiration of his term of office and who is otherwise eligible to retire under this chapter must file the notice of retirement provided for in Section 75025 or an election to retire under Section 75033.5 prior to the effective date of his retirement, and the effective date of his retirement cannot be earlier than the date when the notice of retirement is filed with the Judges' Retirement System.

SEC. 23. Section 75033 of the Government Code is amended to read:

75033. Notwithstanding any other provision of this chapter, if the service of a judge, who has been elected or appointed as such, is discontinued by any means other than death, resignation, recall, impeachment, or retirement pursuant to this chapter, he shall have the right to elect in writing filed with the Judges' Retirement System within ninety (90) days thereafter, and without right of revocation, whether to allow his accumulated contributions to remain in the fund. A judge who after the effective date of the 1972 amendments to this section leaves his office to accept any lucrative office under the United States within the purview of Section 28, Article IV, of the Constitution shall not be eligible for deferred retirement under this section. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. A judge who so elects to allow his accumulated contributions to remain in the fund shall, upon his application therefor to the Judges' Retirement System be retired, and after attaining age 65 receive a retirement allowance based upon the judicial service with which he is credited, in the same manner as other judges, except that his retirement allowance is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to the discontinuance of his service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of such discontinuance of his service, not to exceed eight years.

This section shall not be applicable to any person who becomes a judge after the operative date of the amendments to this section during the 1973–74 Regular Session.

The amendments to this section during 1977 shall also be applicable to persons who elected to allow their accumulated contributions to remain in the fund prior to January 1, 1978.

SEC. 24. Section 75060.6 of the Government Code is amended to read:

75060.6. Except as provided in Section 75060.5, every judge who retires pursuant to Section 75060 shall during the remainder of his or her life, receive an allowance equal to one-half of the salary payable, at the time the allowance falls due, to the judge holding the judicial office to which he or she was last elected by the people. The allowance shall be paid by the state at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

The Commission on Judicial Performance, in its discretion, and from time to time, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

SEC. 25. Section 75096 of the Government Code is amended to read:

75096. The monthly allowance payable pursuant to Section 75091 shall be paid to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under the age of 22 who are full-time students, of a judge who dies prior to retirement under this chapter without a surviving spouse or in the event that the surviving spouse of such a judge dies after his death. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within this article shall be made by filing a written notice thereof with the Judges' Retirement System. Any such election by a judge may thereafter be revoked by the judge and a

reelection may be made at any time after such revocation.

SEC. 26. Section 75096.1 of the Government Code is amended to read:

75096.1. Notwithstanding any other provisions of this article to the contrary, the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, of a judge who dies prior to retirement without a surviving spouse, or in the event that the surviving spouse of such judge dies after his death while receiving an allowance payable pursuant to Section 75093, may elect to receive in lieu of any other surviving children's benefits an allowance equivalent to that payable pursuant to Section 75093, including, in the event of the death of the judge without a surviving spouse, the deduction therein provided. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include the judge's election that his children should enjoy the election granted by this section, and contributions shall be made by the judge so electing as provided in Section 75097.

SEC. 27. Section 75096.2 of the Government Code is amended to read:

75096.2. A monthly allowance equivalent to the allowance payable pursuant to Section 75104.4 shall be paid, in lieu of the allowance provided in Section 75096, or any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age of 22 who are full-time students, of a judge who, although eligible for retirement, dies prior to retirement under this chapter without a surviving spouse, or in the event that the surviving spouse dies after his death while receiving an allowance payable pursuant to Section 75104.4. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefit of this section, and contributions shall be made by the judge so electing as provided in Section 75097.

SEC. 28. Section 75096.3 of the Government Code is amended to read:

75096.3. A monthly allowance equivalent to the allowance payable pursuant to Section 75077 shall be paid, in lieu of any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried

children over age 18 and under age 22 who are full-time students, of a judge who dies after retirement under this chapter without a surviving spouse or in the event that the surviving spouse of such a judge dies after his death while receiving an allowance payable pursuant to Section 75077. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his retirement.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefits of this section, and contributions shall be made by any retired judge so electing as fixed by Section 75097 to be deducted from the judge's retirement allowance during his lifetime as provided in Section 75106.5.

SEC. 29. Section 75098 of the Government Code is amended to read:

75098. If an allowance is paid under this article no payment shall be made pursuant to Section 75104 or Section 75104.5, provided however, that if the prospective allowance payable to the children under the provisions of this article upon the death of a judge or retired judge without a surviving spouse is less than the aggregate amount payable under the provisions of Sections 75104 and 75104.5, and the judge has designated his children as his beneficiaries, the guardian of the children under age 18 and the children over 18 may elect to take the latter amount and waive the allowance otherwise payable under this article.

CHAPTER 396

An act to add Article 17 (commencing with Section 53980) and Article 18 (commencing with Section 53990) to Chapter 4 of Part 1 of Division 2 of Title 5 of, and to repeal Article 10.8 (commencing with Section 65591) and Article 10.9 (commencing with Section 65596.5) of Chapter 3 of Division 1 of Title 7 of, the Government Code, relating to planning, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Article 17 (commencing with Section 53980) is added to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 17. Community Facilities Plan

53980. This article shall be known and may be cited as the "Local-State Financial Coordination Act."

53981. It is the Legislature's intent that local agencies pursue financing, within the limitations, prescribed by Articles XIII A and XIII B of the California Constitution, for required public facilities. In order to protect the health, safety, and welfare of the people of this state and to effectively plan for future development, it is essential that all public facilities be provided in accordance with the coordinated construction schedule to assure necessary public services to residential, commercial, and industrial developments.

53982. An action to determine the validity of any resolution, ordinance, agreement, or method of financing authorized or undertaken pursuant to this article or Article 18 (commencing with Section 53990) may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

53983. Unless the provision or context otherwise requires, the definitions contained in this section shall govern the construction of this article and Article 18 (commencing with Section 53990). The definition of a word applies to any of its variants. As used in this article and Article 18 (commencing with Section 53990):

(a) "Legislative body" means the elected or appointed governing body or authority of a local agency.

(b) "Local agency" means a city, county, city and county, special district, school district, community college district, county superintendent of schools, or any other agency of the state formed for the local performance of governmental or proprietary functions within limited boundaries.

(c) "Plan" means a plan which specifies the new public facilities to serve residential, commercial, and industrial developments within a defined area and the financing and construction schedule of new public facilities.

(d) "State agency" means any office, department, commission, or agency of the State of California with authority to approve or recommend approval of the priority of allocation, or allocations, of state funds to local agencies or to approve or recommend approval of the priority or allocation of funds for state construction.

53984. Any local agency may adopt a plan which shall include, but not be limited to, a component identifying public facilities needed for development within a defined area and a component describing the method of financing construction of such public facilities.

53985. It is the specific intent of this article and Article 18 (commencing with Section 53990) to protect the financial integrity of a plan by assuring continued and timely allocation of state funds to meet construction of public facilities which are the responsibility of the state and are included in the adopted plan.

53986. The local agency shall give written notice of the adoption of the plan, and submit copies for delivery, to those state agencies

which may be affected as determined by the State Clearinghouse in the Office of Planning and Research.

53987. A local agency and a state agency may enter into an agreement to coordinate the priority or allocation of state funds to the local agency for state construction projects in order to implement the financial component of the plan.

53988. On and after the date that an agreement is executed pursuant to Section 53987, or if a local agency adopts a plan which is consistent with a priority list adopted by a state agency, or if a state agency adopts a priority list consistent with a plan adopted by a local agency, no state agency shall alter, defer, or deny priority or allocation of state funds or alter, defer, or deny priority or allocation of state construction, except where necessary for reasons beyond the control of either agency, including, but not limited to, environmental complications, a change in the scope of the project, or insufficient funds.

The provisions of this section shall not apply to the Clean Water Grant Program, which the federal Environmental Protection Agency has delegated to the State Water Resources Control Board to administer pursuant to the Porter-Cologne Water Quality Control Act and the Federal Clean Water Act, or to public facilities which are not owned by a local agency or a state agency.

SEC. 2. Article 18 (commencing with Section 53990) is added to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 18. Local Tax Allocation Agreements to Implement Community Facilities Plan

53990. A local agency may enter into an agreement with any other local agency for the allocation of ad valorem taxes for the purpose of implementing the financial component of the plan. Any such agreement shall be consistent with legislation implementing Article XIII A and Article XIII B of the California Constitution.

53991. No state agency shall, on or after the date that a tax allocation agreement is entered into pursuant to Section 53990 alter, defer, or deny priority or allocation of state funds to a local agency or for state construction projects by virtue of such tax allocation agreement.

53992. A local agency and state agency may enter into an agreement to coordinate the priority or allocation of state funds to the local agency or state construction projects in order to implement the financial component of the plan.

SEC. 3. Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 4. Article 10.9 (commencing with Section 65596.5) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

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 avoid confusion over the proper procedure for judicial review of certain local decisions, to specify additional local entities which may utilize the provisions contained in this act, and to correct various cross references to statutory provisions as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 397

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

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983]

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

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

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

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed under federal law to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered

from the thief or his transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

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

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

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

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 398

An act to amend Sections 803 and 2234 of, and to add Sections 2292, 2293, and 2294 to, the Business and Professions Code, relating to professional competence.

[Approved by Governor July 26, 1983 Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 803 of the Business and Professions Code is amended to read:

803. Within 10 days after a judgment by a court of this state that a person who holds a license, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars ($30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court which rendered the judgment shall report that fact to that agency which issued the

license, certificate or other similar authority.

SEC. 2. Section 2234 of the Business and Professions Code is amended to read:

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 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.

SEC. 3. Section 2292 is added to the Business and Professions Code, to read:

2292. (a) A physician may be ordered to undergo a professional competency examination if, after investigation and review by a medical consultant of the Board of Medical Quality Assurance or his or her designee, and review and concurrence by at least one outside medical consultant, there is reasonable cause to believe that the physician is unable to practice medicine with reasonable skill and safety to patients. Reasonable cause shall be demonstrated by one or more of the following: (1) a single incident of gross negligence; (2) a pattern of inappropriate prescribing; (3) an act of incompetence or negligence causing death or serious bodily injury; or (4) a pattern of substandard care.

(b) The matter shall be presented by the board's Executive Director or his or her designee by way of a written petition detailing the reasonable cause. A copy of the petition shall be served on the physician who shall have the opportunity to file written opposition to the petition within 30 days after service. Service of the petition and any orders shall be in accordance with the methods of service authorized by subdivision (c) of Section 11505 of the Government Code.

(c) The petition may be considered by the Division of Medical Quality, or the division may assign the petition for consideration to a panel of a Medical Quality Review Committee, formed pursuant to Section 2323.

(d) The division or a committee panel shall review the petition and any opposition paper from the physician. If the division or panel is satisfied that reasonable cause exists as to the circumstances specified in subdivision (a), the division or panel shall issue an order compelling the physician to undergo a professional competency examination. Failure to comply with the order duly served on the

physician shall constitute unprofessional conduct for purposes of disciplinary proceedings.

SEC. 4. Section 2293 is added to the Business and Professions Code, to read:

2293. (a) The professional competency examination shall be in the form of an oral clinical examination to be administered by two physician examiners selected by the division or its designee, who shall test for medical knowledge and any special knowledge of a physician in the examinee's type of practice. The examination shall be tape recorded.

(b) If the examinee fails the original examination, a second examination shall be scheduled before two different examiners within 90 days. A failing grade from both examiners shall constitute a failure of an examination.

(c) If the examinee fails both examinations, the division may take action pursuant to Section 2230 by directing that an accusation be filed charging the examinee with incompetency under subdivision (d) of Section 2234. The modes of discipline are set forth in Sections 2227 and 2228.

(d) Findings and conclusions reported by the examiners may be received for all purposes in the administrative hearing on the accusation.

SEC. 5. Section 2294 is added to the Business and Professions Code, to read:

2294. If the division determines there is insufficient cause to file an accusation based on the examination results, then all agency records of the proceedings, including the petition and order for the examination, investigative reports, if any, and the reports of the examiners, shall be kept confidential and shall not be subject to discovery or subpoena. However, the passing of the competency examination shall not prevent the division from filing an accusation based on unprofessional conduct as defined in Section 2234.

If no further proceedings are conducted to determine the physician's fitness to practice during a period of five years from the date of the petition under Section 2292, then the agency shall purge and destroy all records pertaining to the proceedings.

SEC. 6. Sections 3, 4, and 5 of this act shall become operative January 1, 1985.

SEC. 7. (a) The Division of Medical Quality shall consult with the California Medical Association, the Golden State Medical Association, the Union of American Physicians and Dentists, and other appropriate organizations in order to develop a procedure for addressing physician competence which would be an alternative to the procedure outlined in Sections 3, 4, and 5 of this act. The Board of Medical Quality Assurance shall report to the Legislature by March 1, 1984, on the results of the division's consultations and any alternative process or procedure developed.

(b) The report shall include, but not be limited to, a discussion of (1) whether the method of selection of the outside medical

consultant specified in Section 2292 and the physician examiners specified in Section 2293 is adequate to protect the rights of the physician accused of incompetency, and (2) whether the opportunity to file a written opposition to the petition alleging incompetency is adequate to protect the rights of the physician accused of incompetency or an oral opposition should be permitted as well.

CHAPTER 399

An act to amend Section 146e of, and to add Section 146f to, the Penal Code, and to amend Section 1808.4 of the Vehicle Code, relating to peace officers.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 146e of the Penal Code is amended to read:

146e. Every person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any peace officer, or that of the spouse or children of a peace officer, whether living with the peace officer or not, while designating the peace officer or relative of a peace officer as such, without the authorization of the agency which employs such peace officer, is guilty of a misdemeanor.

SEC. 2. Section 146f is added to the Penal Code, to read:

146f. No inmate under the control or supervision of the Department of Corrections or the Department of the Youth Authority shall be permitted to work with records or files containing peace officer personnel information or be allowed access to the immediate area where that information is normally stored, except for maintenance services and only after those records or files have been secured and locked.

SEC. 3. 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, or the spouse or children of a peace officer whether living with the peace officer or not, 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. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. Section 3 of this act shall become operative July 1, 1984.

CHAPTER 400

An act to amend Section 14031.6 of the Government Code, relating to transportation.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 14031.6 of the Government Code is amended to read:

14031.6. (a) The Governor shall include in the Budget Bill an appropriation from the Transportation Planning and Development Account in the State Transportation Fund to subsidize the operating costs of commuter and intercity passenger services pursuant to Section 14035 and an appropriation for capital improvements to intercity routes pursuant to Section 14038.

(b) The department shall recommend and the commission shall allocate to specific routes all funds appropriated for the purposes of Sections 14035 and 14038.

(c) The department shall request funding for capital improvements to commuter routes to which it provides subsidies through the program for exclusive public mass transit guideways established by subdivision (c) of Section 99317 and Section 99317.6 of the Public Utilities Code.

CHAPTER 401

An act to repeal Section 708 of the Public Utilities Code, relating to passenger rail service.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 708 of the Public Utilities Code is repealed.

CHAPTER 402

An act to amend Sections 7.6, 7.7, 7.8, 9.1, 9.3, and 27 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953), relating to the San Benito County Water Conservation and Flood Control District.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 7.6 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 7.6. The board may by resolution order that the district shall annually prepare an investigation and report upon groundwater conditions of the district and the zones thereof and upon activities of the district for protection and augmentation of the water supplies of the district and the zones thereof. The investigation and report shall include, among other information which the board may order, information for the consideration of the board in its determination of the annual overdraft, information for the consideration of the board in its determination of the accumulated overdraft as of the last day of the preceding water year, a report as to the total production of water from the groundwater supplies of the district and the zones thereof for the preceding water year, an estimate of the annual overdraft for the current water year and for the ensuing water year, information for the consideration of the board in its determination of the estimated amount of agricultural water and the estimated amount of water other than agricultural water to be withdrawn from the groundwater supplies of the district and the zones thereof for the ensuing water year, the amount of water the district is obligated to purchase during the ensuing water year, a recommendation as to the quantity of water needed for surface delivery and for replenishment of the groundwater supplies of the district and the zones thereof the

ensuing year, a recommendation as to whether or not a groundwater charge should be levied in any zone or zones of the district during the ensuing water year and, if any groundwater charge is recommended, a proposal of a rate per acre-foot for agricultural water and a rate per acre-foot for all water other than agricultural water for such zone or zones.

SEC. 2. Section 7.7 of the San Benito Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 7.7. On the second Monday in March of each year the engineering investigation and report shall be delivered to the clerk of the district board in writing. The clerk shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of such report and of the public hearing to be held on the second Monday of April in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding the engineering investigation and report shall be held. The notice, among other information which the district may provide therein, shall contain an invitation to all operators of water-producing facilities within the district to call at the offices of the district to examine said engineering investigation and report.

There shall be held by the board on the second Monday of April of each year, in the chambers of the board, a public hearing at which time any operator of a water-producing facility within the district, or any person interested in the condition of the groundwater supplies or the surface water supplies of the district, may in person, or by representative, appear and submit evidence concerning the groundwater conditions and the surface water supplies of the district. Appearances also may be made supporting or protesting the written engineering investigation and report.

SEC. 3. Section 7.8 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 7.8. Prior to the end of the water year in which said hearing is held, and based upon the findings and determinations from said hearing, the board shall determine whether or not a groundwater charge should be levied in any zone or zones. If the board determines that a groundwater charge should be levied, it shall levy, assess, and affix such charge or charges against all persons operating groundwater-producing facilities within such zone or zones during the ensuing water year. The charge shall be computed at a fixed and uniform rate per acre-foot for agricultural water, and at a fixed and uniform rate per acre-foot for all water other than agricultural water. Different rates may be established in different zones; provided, however, that in each zone the rate for agricultural water shall be fixed and uniform and the rate for water other than agricultural water shall be fixed and uniform; further provided, that the rate for agricultural water shall not exceed one-third of the rate for all water other than agricultural water.

The groundwater charge in any year shall not exceed the costs reasonably borne by the district in the period of the charge in providing the water supply service authorized by this act in the district or a zone or zones thereof.

Any groundwater charge levied pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof.

Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility where the production of water therefrom is otherwise properly charged, or in the making or extension of any charge upon the records which do not affect the substantial rights of the assessee or assessees, shall not invalidate the groundwater charge.

SEC. 4. Section 9.1 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 9.1. The governing body of the district shall be a board of five directors who shall take office at noon on the last Friday in November and who shall be elected by divisions.

The term of office of each director is four years or until his or her successor qualifies and takes office. One director shall be elected from each of five divisions. The boundaries of each division shall be coterminous with and the same as those for the supervisorial districts of the county.

A director shall be a resident of, and a registered voter in, the division he or she represents.

Vacancies among the directors, including the failure of a person to qualify, shall be filled by appointment by the remaining directors of a person who is eligible to be elected for the vacancy.

SEC. 5. Section 9.3 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 9.3. Each member of the board of directors shall be entitled to receive from the district a sum not to exceed one hundred dollars ($100) for each day's attendance at the meetings of the board, not to exceed a maximum of two thousand dollars ($2,000) in each calendar year. In addition to such compensation all members shall be entitled to receive a per diem not exceeding one hundred dollars ($100) per day and their actual and necessary expenses incurred while on official business of the district under an order of the board.

SEC. 6. Section 27 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 27. All contracts for any improvement or unit of work when the cost thereof according to the estimate of the engineer, will exceed fifteen thousand dollars ($15,000) shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into

severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call pursuant to Section 6063 of the Government Code in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of fifteen thousand dollars ($15,000) or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account. The increase from five thousand dollars ($5,000) to fifteen thousand dollars ($15,000) in the force account limits shall be subject to the provisions of Assembly Bill No. 1666 of the 1983–84 Regular Session of the Legislature if that bill is chaptered and when a uniform cost accounting procedure has been established and is available for adoption by the district. Otherwise, the amendments to this section enacted during the 1983–84 Regular Session are in effect.

CHAPTER 403

An act to add Section 1320.5 to the Penal Code, relating to bail.

[Approved by Governor July 26, 1983 Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 1320.5 is added to the Penal Code, to read:

1320.5. Every person who is charged with the commission of a felony, who is released from custody on bail, and who in order to evade the process of the court willfully fails to appear as required, is guilty of a misdemeanor. Willful failure to appear within 14 days of the date assigned for appearance may be found to have been for the purpose of evading the process of the court.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 404

An act to amend Section 11735 of the Water Code, and to amend Sections 6 and 8 of, and to repeal and add Section 4 of, the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955), relating to water resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 11735 of the Water Code is amended to read:

11735. Bonds may be issued in coupon form with interest payable at such times as determined by the department and shall mature at such times and in such amounts as the department prescribes.

SEC. 2. Section 4 of the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955) is repealed.

SEC. 3. Section 4 is added to the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955), to read:

Sec. 4. The district shall consist of all the territory lying within the following described exterior boundaries:

Beginning at the southwest corner of Section 1, Township 7 South, Range 9 East, located on River Road in Merced County; thence westerly along River Road to the easterly right-of-way of the Reclamation Board Levee; said levee being approximately 1200 feet southeasterly measured along the centerline of said River Road from the Merced River; thence southerly, southeasterly, and easterly along said right-of-way to a line which is the northerly prolongation of the easterly right-of-way of the Salt Slough Levee of the

Reclamation Board in Section 28, Township 7 South, Range 10 East; thence southerly to the said right-of-way; thence southerly and easterly along said right-of-way to the east line of Section 33, Township 7 South, Range 10 East; thence south along the east line of said section and Sections 4, 9, 16, and 21 of Township 8 South, Range 10 East to the northeasterly side of the San Luis Canal; thence southeasterly along northeasterly side of said canal to the north township line of Township 10 South, Range 10 East; thence east along the said line to the Turner Island Road; thence south along said road to the northerly side of the West Delta Canal; thence easterly, southeasterly, and southerly along said canal to the east line of Section 17, Township 10 South, Range 12 East; thence south along said line to the southeast corner of said Section 17 being on State Highway Route 152; thence east along the south line of Sections 16, 15, and 14 and south along the west lines of Sections 24 and 25 of Township 10 South, Range 12 East to the northerly side of the Arroyo Canal; thence easterly and southeasterly along said canal to the west line of Range 13 East; thence south along said line to the north line of the southwest ¼ of Section 18, thence east and south along the north and east lines of said ¼ of Section 18 and south along the east line of the west ½ of Section 19, Township 11 South, Range 13 East to the south line of said section; thence east along the south line of Sections 19 and 20 and south along the west line of Sections 28 and 33, and east along the south line of Sections 33 and 34, Township 11 South, Range 13 East to the west line of Section 12, Township 12 South, Range 13 East; thence south and east along the west and south lines of the north ½ of said Section 2 to the west line of Section 1, Township 2 South, Range 13 East; thence south along the west line and said Section 1, Sections 12 and 13 to the intersection of the northeasterly line of the right-of-way of the Southern Pacific Railroad; thence southeasterly along said east line of the railroad to the easterly right-of-way line of the U.S.B.R. Delta Mendota Canal; thence southeasterly along said easterly right-of-way line to the west line of Section 19, Township 13 South, Range 15 East; thence south along said line to the north line of Section 30, Township 13 South, Range 15 East; thence east and south along the north and east lines of the west ½ of said Section 30 to the north line of Section 31; thence east and south along the north and east lines of the east ½ of said Section 31, Township 13 South, Range 15 East and south along the east line of Section 6, Township 14 South, Range 14 East to the intersection of the northeasterly line of the right-of-way of the Southern Pacific Railroad; thence southeasterly along said easterly line of said right-of-way to the Whites Bridge Road being State Highway Route 180; thence east along said Whites Bridge Road to the east line of Section 4, Township 14 South, Range 16 East; thence north along said line to the north line of Township 14 South; thence east along the south line of Sections 34 and 35 to the east line of Section 35, Township 13 South, Range 16 East; thence north along the east side of said Sections 25 and 26 to the south line of the northwest ¼

of Section 25, Township 13 South, Range 16 East; thence east and north along the south and east lines of said ¼ of the section of the south line of Section 24; thence east along said line to the east line of said Section 24, Township 13 South, Range 16 East; thence north along the east line of said Section 24 and Section 13 to the north line of Section 13, Township 13 South, Range 16 East; thence west along the north line of said Section 13 and Sections 14, 15, 16, 17, and 18 of Township 13 South, Range 16 East and Section 13, Township 13 South, Range 15 East to the west line of the east ½ of Section 12, Township 13 South, Range 15 East; thence north along the west line of the east ½ of Sections 12 and 1 to the north line of Township 13 South; thence west along said line to the east line of Section 35, Township 12 South, Range 15 East; thence north along said line to the north line of said Section 35; thence west along said line to the east line of the west ½ of Section 26, Township 12 South, Range 15 East; thence north along the east line of the west ½ of Sections 26 and 23 to the north line of said Section 23; thence west along said line to the easterly levee right-of-way of the Chowchilla Canal Bypass of the Reclamation Board; thence northwesterly along said right-of-way to the Fresno River; thence westerly along said river to the north line of the Chowchilla Canal; thence northerly and westerly to the north line of the south ½ of Section 22, Township 10 South, Range 14 East; thence west along the north line of the south ½ of Sections 22, 21, 20, and 19, Township 10 South, Range 13 East to the northeasterly levee right-of-way of the Eastside Bypass of the Reclamation Board; thence northwesterly along the various courses of the said right-of-way to the east side of the Eastside Canal; thence northwesterly along said line to the north line of Section 33, Township 7 South, Range 11 East; thence west along said Section 33 and Sections 32 and 31 to the west line of Range 11 East; thence north along the said line to the south line of the northeast ¼ of Section 25, Township 7 South, Range 10 East; thence west and north along the south and west lines of the northeast ¼ of said Section 25 to the north line of said Section 25; thence west along said line to the east line of Section 23, Township 7 South, Range 10 East; thence north along said line of State Highway Route 140; thence west along said highway to the east line of the west ½ of Section 19, Township 7 South, Range 10 East; thence north along said line to the north line of said Section 19; thence west along said line to the west line of Range 10 East; thence north along said line to the north line of Section 13, Township 7 South, Range 9 East; thence along said line to the east line of the southwest ¼ of Section 12, Township 7 South, Range 9 East; thence north and west along the east and north lines of said Section 12 to the west line of said Section 12; thence north along said line to southwest corner of Section 1, Township 7 South, Range 9 East, the point of beginning.

SEC. 4. Section 6 of the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955) is amended to read:

Sec. 6. The board shall consist of seven members. Three members shall be appointed by the Board of Supervisors of Merced County,

two members by the Board of Supervisors of Fresno County, and two members by the Board of Supervisors of Madera County. The directors shall be appointed on a division basis. There shall be seven divisions consisting of the following territory:

Merced County:

Division No. 1 lying within the boundaries of the Lower San Joaquin Levee District, and more particularly described as follows:

Beginning at the point where the San Joaquin River Levee, North Bank, ends on River Road in Section 11, Township 7 South, Range 9 East; thence following the south side of said levee upstream to a point in the northwest quarter of the northwest quarter of Section 28, Township 7 South, Range 10 East; thence South 1.75 miles to a point on the north line of the southwest quarter of Section 33, Township 7 South, Range 10 East; thence easterly 0.75 mile to a point on the east line of said Section 33; thence south 4.0 miles to a point on the east line of Section 21, Township 8 South, Range 10 East; and the easterly bank of the San Luis Canal; thence southeasterly along the east side of San Luis Canal, to the south line of Section 35, Township 8 South, Range 10 East; thence easterly along the south line of Sections 35 and 36, Township 8 South, Range 10 East; thence northerly along the east line of Sections 36, 25, 24, 13, 12, and 1, Township 8 South, Range 10 East; thence continuing northerly along the east side of Section 36 and to a point on Section 25, Township 7 South, Range 10 East, which point is the northeast corner of the southwest quarter of said Section 25; thence west to the northwest corner of the southwest quarter of Section 25; thence north to a point on the north line of said Section 25; thence westerly to the northwest corner of Section 25; thence along the east line of Section 23, Township 7 South, Range 10 East, northerly to a point on the south side of State Highway Route 140; thence along the south side of said Route 140 westerly for 4.5 miles to a point where it leaves the north line of Section 19, Township 7 South, Range 10 East; thence north 0.25 mile; thence west to the southeast corner of Section 13, Township 7 South, Range 9 East; thence along the easterly line of said Section 13 to the northeast corner of Section 13; thence west 0.5 mile along the north line of Section 13; thence north 0.5 mile; thence west 0.5 mile to a point on the east line of Section 11, Township 7 South, Range 9 East; thence along the east line of Section 11, northerly 0.5 mile to a point on the south side of River Road, thence westerly along the south side of River Road to the point of beginning.

Division No. 2 consisting of that portion of the Precincts of McSwain No. 1, Monroe and El Nido lying within the boundaries of the Lower San Joaquin Levee District, and more particularly described as follows:

Parcel No. 1 beginning at the intersection of the east side of the San Luis Canal and the north line of Section 2, Township 9 South, Range 10 East, thence southeasterly along the east side of San Luis Canal to the San Pedro Grade Road at the north line of Section 1,

Township 10 South, Range 10 East; thence east along said road and along the line between Township 9 South, and Township 10 South 4.25 miles to the southeast corner of Section 34, Township 9 South, Range 11 East; thence along the easterly line of Sections 34, 27, 22 and 15, Township 9 South, Range 11 East to the San Joaquin River; thence northwesterly along the San Joaquin River to the north line Township 9 South; thence easterly along the line between Township 9 South and Township 8 South to the northwest corner of Section 3, Township 9 South, Range 12 East; thence south 3 miles to the northeast corner of Section 21, Township 9 South, Range 12 East; thence east 6 miles to the northeast corner of Section 21, Township 9 South, Range 13 East, thence north 2 miles to the northeast corner of Section 9; thence west 3 miles to the northwest corner of Section 7; thence north 1 mile to the northeast corner of Section 1, Township 9 South, Range 12 East; thence west 1.9 mile to the southeast corner of Section 34, Township 8 South, Range 12 East; thence north 1½ mile to the northeast corner of the southeast quarter of Section 2; thence west 1 mile; thence north ½ mile to the northeast corner of Section 28; thence west ½ mile; thence north 1 mile; thence west 1½ miles to the northwest corner of Section 20; thence north 1 mile to the northeast corner of Section 18, Township 8 South, Range 12 East; thence west 1 mile to the southeast corner of Section 12, Township 8 South, Range 11 East; thence north 1 mile to the northeast corner of Section 12; thence west 2 miles to the northwest corner of Section 11; thence north 1 mile to the northeast corner of Section 3, Township 8 South, Range 11 East; thence west 2 miles to the southeast corner of Section 32, Township 7 South, Range 11 East; thence north 1 mile; thence west 2 miles to the northwest corner of Section 31; thence south 1 mile to the southwest corner of Section 31, Township 7 South, Range 11 East; thence continuing south 6 miles to the southwest corner of Section 31, Township 8 South, Range 11 East; thence west 1.3 mile to the point of beginning.

Parcel No. 2 begins at the southwest corner of Section 34, Township 9 South, Range 13 East; thence north 1 mile to the northwest corner of Section 34; thence east 3 miles to the northeast corner of Section 36; thence south 1 mile to the southeast corner of Section 36, Township 9 South, Range 13 East; thence continuing south 1 mile to the southeast corner of Section 1, Township 10 South, Range 13 East; thence west 3 miles to the southwest corner of Section 3; thence north 1 mile to the northwest corner of Section 3, Township 10 South, Range 13 East and the point of beginning.

Division No. 3 consisting of that portion of the Precincts of Arroyo Santa Rita and Miller lying within the boundaries of the Lower San Joaquin Levee District, and more particularly described as follows:

Beginning at the southwest corner of Section 35, Township 9 South, Range 11 East; thence east 2 miles to Turner Island Road; thence South along Turner Island Road 3 miles to State Highway Route 152 at the south line of Section 18, Township 10 South, Range 12 East; thence east along said State Highway Route 152, 3 miles to the

northwest corner of Section 22, Township 10 South, Range 12 East; thence south ¾ mile, more or less, to the north boundary of the Dos Palos Drainage District at Arroyo Canal; thence along the Arroyo Canal and said boundary easterly and southerly to the west line of Section 26, Township 10 South, Range 12 East; thence continuing along said boundary south 0.6 mile along said west line to the Colony Main Canal; thence southerly along said drainage district boundary and Colony Main Canal to the south line of Section 35, Township 10 South, Range 12 East; thence continuing along said boundary east ½ mile to the northwest corner of Section 1, Township 11 South, Range 12 East; thence along said boundary south 1 mile to the southwest corner of said Section 1; thence continuing along said boundary east 0.85 mile to the boundary line between Merced and Fresno Counties; thence northeasterly along the boundary line between Merced and Fresno Counties and the boundary line between Merced and Madera Counties to northeast corner Section 12, Township 10 South, Range 13 East; thence west 3 miles to the southwest corner of Section 3; thence north 1 mile to the northwest corner of Section 3, Township 10 South, Range 13 East; thence continuing north 3 miles to the northeast corner of Section 21, Township 9 South, Range 13 East; thence west 6 miles to the northeast corner of Section 21, Township 9 South, Range 12 East; thence north 3 miles to the northwest corner of Section 3, Township 9 South, Range 12 East; thence west 6.2 miles to the intersection of the south line of Section 33, Township 9 South, Range 11 East with the San Joaquin River; thence southeasterly to the intersection of the San Joaquin River with the west line of Section 14, Township 9 South, Range 11 East; thence south 4 miles to the point of beginning.

Madera County:

Division No. 4 consisting of that portion of the Precincts of Ripperdan and Columbia lying within the boundaries of the Lower San Joaquin Levee District and more particularly described as follows:

Beginning at the intersection of the north line of Section 17, Township 13 South, Range 17 East with the boundary line between Fresno and Madera Counties, thence west 7½ miles to the northwest corner of Section 18, Township 13 South, Range 16 East; thence north 2 miles to the northeast corner of Section 1, Township 13 South, Range 15 East; thence west 0.8 mile to the southeast corner of Section 35, Township 12 South, Range 15 East; thence north 3 miles to the northeast corner of Section 23, Township 12 South, Range 15 East; thence west 1.65 miles to the intersection of the north line of Section 22, Township 12 South, Range 15 East, with Chowchilla Canal; thence northwesterly along Chowchilla Canal 3¼ miles to the boundary line between Township 11 South, and Township 12 South; thence west along said township line to the San Joaquin River and the boundary between Madera and Fresno Counties; thence upstream along said county line and the San Joaquin river to the point of beginning.

Division No. 5 consisting of that portion of the Precincts of Bonita, Dairyland, Bethel, and Ash View lying within the boundaries of the Lower San Joaquin Levee District and more particularly described as follows:

Beginning at the intersection of the Chowchilla Canal with the south line of Section 33, Township 11 South, Range 15 East; thence northwesterly along the Chowchilla Canal to the north line of Section 21, Township 10 South, Range 14 East; thence west 1½ miles to the northwest corner of Section 20; thence north 1 mile to the northeast corner of Section 18; thence west 1 mile to the southeast corner of Section 12, Township 10 South, Range 13 East; thence north 1 mile to the northeast corner of Section 12 and the county line between Madera and Merced Counties; thence southwesterly along said county line to the intersection of said line with the San Joaquin River and boundary line between Fresno and Madera Counties; thence upstream along the Fresno-Madera County line and the San Joaquin River to the south line of Township 11 South; thence east along the boundary between Township 11 South and Township 12 South, to the point of beginning.

Fresno County:

Division No. 6 consisting of that portion of the Precincts of Bryand, Las Deltas, Tranquility, Empire, and Vineland lying within the boundaries of the Lower San Joaquin Levee District, excepting the City of Firebaugh, and more particularly described as follows:

Beginning at the intersection of the south line of Section 1, Township 11 South, Range 12 East and the boundary line between Merced and Fresno Counties, thence east to the southeast corner of said Section 1; thence south along the range line between Township 11 South, Range 12 East, and Township 11 South, Range 13 East 4.25 miles to the intersection of the easterly line of the right-of-way of the Southern Pacific Railroad and the west line of Section 31, Township 11 South, Range 13 East; thence southeasterly along said east line of the railroad 11.5 miles to the easterly right-of-way line of the U.S.B.R. Delta Mendota Canal; thence southeasterly 6 miles to the intersection of said easterly right-of-way line with the west line of the east ½ of southeast ¼ of Section 19, Township 13 South, Range 15 East; thence south 0.7 mile to the southwest corner on east ½ of northeast ¼ of Section 30, Township 13 South, Range 15 East; thence east ¼ mile to quarter section corner on the east line of said Section 30; thence south along the east line of Sections 30 and 31, Township 13 South, Range 15 East, and the east line of Section 6, Township 14 South, Range 15 East, to the northeasterly right-of-way line of the Southern Pacific Railroad; thence southeasterly along said railroad right-of-way 2 miles to White's Bridge Road; thence east along White's Bridge Road 7¼ miles to the southeast corner of Section 3, Township 14 South, Range 16 East; thence north 1 mile to the southeast corner of Section 34, Township 13 South, Range 16 East; thence east 3 miles to the southeast corner of Section 31, Township

13 South, Range 17 East; thence north 3 miles to the northeast corner of Section 19, Township 13 South, Range 17 East; thence east 2 miles to the southeast corner of Section 16, Township 13 South, Range 17 East; thence north 1⅓ mile to the San Joaquin River and the county line between Fresno and Madera Counties; thence along said county line downstream to the Merced County line; thence southwesterly along the boundary line between Merced and Fresno Counties, and excepting that portion of the City of Firebaugh lying within the boundaries of the Lower San Joaquin Levee District.

Division No. 7 consisting of that portion of the City of Firebaugh lying within the boundaries of the Lower San Joaquin Levee District.

All of the Townships and Ranges referred to in the descriptions of this section are with reference to the Mt. Diablo Base and Meridian.

One director shall be appointed from each of the seven divisions of the district, and each member of the board of directors shall be an owner of land, or a representative of a corporation owning land, within the division which he is appointed to represent. Each director shall serve for a four-year term and until his successor is appointed and qualifies.

Any vacancy on the board shall be filled by appointment of a member in a same manner and for same division as that of director whose office is vacant.

SEC. 5. Section 8 of the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955) is amended to read:

Sec. 8. (a) Annually, on or before the first day of June, the board shall cause to be prepared an estimate of the total amount of money necessary to be raised by assessment for all district purposes during the next ensuing fiscal year, including any expenditures necessary in connection with or resulting from the assurances and local cooperation described in Section 7 of this act. The board shall add thereto an amount equal to 10 percent thereof for anticipated tax delinquencies. The board shall apportion that total amount of money among the counties of the district equitably in the same proportion as the value of lands, exclusive of improvements, of the district in each county bears to the total value of lands, exclusive of improvements, in the district as determined by the board. The amount so apportioned to each county shall be by resolution of the board, and a certified copy of the resolution shall be transmitted to the boards of supervisors of each of the counties of the district. The board of supervisors shall cause the assessments to be levied on the lands of the district within their respective counties, exclusive of improvements thereon, in proportion to the value thereof sufficient to raise the amounts so apportioned to their respective counties. The assessments shall be collected at the same time, in the same manner, and together with county taxes. Upon collection, all officers of the counties collecting or having in their possession funds derived from the assessments shall immediately transmit the funds to the County Treasurer of Merced County for the credit of the district.

(b) (1) In lieu of any other assessment provided by law, the board

may elect to require that a benefit assessment be levied in the manner set forth in this subdivision, which assessment shall be sufficient to raise the amount or amounts certified by the board as required by the district for the district operations during the coming fiscal year. The Legislature hereby finds and declares that a fair and proper benefit assessment for flood control purposes may be levied on the basis of the use to which benefited land in the district may be put.

(2) The assessment authorized to be levied on each parcel under this subdivision shall be based upon the parcel's proportionate benefit expressed as a product of the degree of protection it receives as determined from its size, and its capacity for being put to use, with respect to all of the parcels in the district. A parcel's benefit product shall equal the acreage of the parcel multiplied by the parcel's land use factor, as specified in paragraph (3). Any parcel less than ⅓ acre in size shall be deemed to be ⅓ acre. For any parcel categorized as agricultural-grazing or as agricultural-other in paragraph (3), every acre over 5 acres shall be deemed to be 1/10 acre.

(3) Each county shall assign each parcel to 1 of the following land use categories based upon the current land use of the parcel as shown on the records of its county assessor:

CATEGORY	*LAND USE FACTOR*
(A) Waste or Unuseable Land	0
(B) Agricultural-Grazing	1
(C) Agricultural-Other	2
(D) Single-family Residential	5
(E) Commercial, Industrial and Other	10

(4) Prior to April 1 of any year, landowners in the district may petition the board, or the board of supervisors of any county may request the board, to review the land use categories and land use factors set forth in paragraph (3), or the board may elect to do so on its own motion. Any landowner petition shall be signed by at least 50 landowners within the district. The board shall set a time and place for a hearing upon the petition or request, or upon its own motion, and shall give notice of the hearing in the manner set forth in Section 6066 of the Government Code. At the hearing, the board shall hear all evidence presented regarding the land use factors and categories and shall determine whether the categories or land use factors assigned to each category should be altered, expanded, or modified in any respect. The board may, by resolution at the conclusion of the hearing, modify the categories and factors as, in its judgment, is required for fair and practical special benefit assessments for the maintenance of the district works.

(5) The amount assessed to each parcel in the district in each county under this subdivision shall be determined by the following

formula: The benefit product of the parcel multiplied by the total amount to be collected in the county, divided by the sum of the various benefit products of all parcels in the county which are in the district.

(6) The board may elect to have its assessments collected by the county officers of the Counties of Merced, Madera, and Fresno with regard to the portions of the district located within those respective counties and may have its taxes collected by the county officials of the counties if the board declares its election by resolution and files a certified copy of the resolution with the auditors of those counties on or before the first day of August. Thereafter, each year, until otherwise provided by the board, all assessments shall be made and collected for the district by the county assessors and tax collectors respectively of those counties. In that case, the auditor of each county shall, on or before the second Monday of August of each year, transmit to the board a statement, in writing, showing the sum of the various benefit products of all parcels in the county which are in the district, and the board shall, on or before the first weekday in September or, if that weekday falls on a holiday, on the first business day thereafter, determine the portion of the tax to be collected by each county and shall immediately thereafter transmit to the county auditors a statement of the amount of assessment to be collected by each county. Upon collection, all officers of the counties collecting or having in their possession funds derived from the assessments shall immediately transmit the funds to the County Treasurer of Merced County for the credit of the district.

(7) Each county may recover the reasonable costs of its services in preparing and levying the assessments. Each county auditor shall submit an estimate, not later than the first day of August each year, which estimates shall then be included as a part of the board's determination of costs set forth hereinabove.

(8) There shall be no allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code to the district if the district utilizes the provisions of this subdivision. If the district utilizes the provisions of this subdivision, the district shall notify the county auditor pursuant to Section 100 of the Revenue and Taxation Code that the district does not desire to receive a property tax allocation.

(c) Whenever any land and improvements situated in the district have been sold for taxes and have been redeemed, the money paid for that redemption shall be apportioned and paid by the appropriate county treasurer to the district in the proportion which the tax due to the district bears to the total tax for which the land and improvements were sold.

(d) All taxes levied under the provisions of this act are a lien upon the land and improvements on which they are levied and, unless the board has by resolution otherwise provided, the enforcement of the collection of those taxes shall in the same manner and by the same means as provided by law for the enforcement of liens for state and

county taxes. All provisions of the law relating to the enforcement of county taxes are made a part of this act.

(e) Whenever in this act the word "tax" is used, the word shall not be deemed or construed as referring to a tax in the technical sense of that term, but shall be deemed only to refer to assessments as are provided for by this act.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

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 the necessity are:

The Congress in September 1982, enacted the Tax Equity and Fiscal Responsibility Act of 1982, which, among other things, requires that all municipal and state bonds issued after December 31, 1982, be in registered form in order for the interest on those bonds to be exempt from federal income taxation. This act amends state law to permit the Department of Water Resources, in the issuance of its Central Valley Project Revenue Bonds, to comply with this newly enacted federal requirement. Therefore, in order for the department to complete the financing of urgently needed hydroelectric and geothermal power projects as scheduled and to service existing obligations, and in order that needed flood control maintenance may be performed by the Lower San Joaquin Levee District as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 405

An act to amend Section 2982.5 of the Civil Code, relating to automobile sales.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 2982.5 of the Civil Code is amended to read:

2982.5. (a) Nothing contained in this chapter shall be deemed to affect a loan, or the security therefor, between a purchaser of a motor vehicle and a supervised financial organization, other than the seller of the motor vehicle, all or a portion of which loan is used in connection with the purchase of a motor vehicle. As used herein "supervised financial organization" means a person organized,

chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans and subject to supervision by an official or agency of this state or the United States.

(b) Nothing in this chapter shall be deemed to prohibit the seller's assisting the buyer in obtaining a loan upon any security from any third party to be used as a part or all of the downpayment or any other payment on a conditional sale contract or purchase order; provided that the conditional sale contract sets forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each such installment, that the buyer may be required to pledge security for the loan, which security must be mutually agreed to by the buyer and the lender and notice to the buyer in at least eight-point type that he is obligated for the installment payments on both the conditional sale contract and the loan. The seller shall not provide any security or other guarantee of payment on such loan, nor shall such seller receive any commission or other remuneration for assisting the buyer to obtain such loan. If the buyer obligates himself to purchase, or receives possession of, the motor vehicle prior to securing such loan, and if the buyer upon appropriate application for such loan is unable to secure such loan, on the conditions stated in the conditional sale contract, such conditional sale contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(c) The proceeds of any such loan payable to the seller after the date of the contract but prior to the due date of the second payment otherwise scheduled thereunder shall not be subject to a finance charge and the amount thereof shall be disclosed pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 2982.

(d) Nothing in this chapter shall be deemed to prohibit the seller's assisting the buyer in obtaining a loan from any third party to be used to pay for the full purchase price, or any part thereof, of a motor vehicle provided that each of the following provisions shall apply:

(1) The loan may be upon any security, but except as provided in paragraph (2), the loan shall not be secured in whole or in part by a lien on real property. Any lien on real property taken in violation of this section shall be void and unenforceable.

(2) A lien on real property may be taken to secure a loan of seven thousand five hundred dollars ($7,500) or more used to pay the full purchase price, or any part thereof, of a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, which is not less than 20 feet in length.

(3) The provisions of Sections 2983.2, 2983.3, and 2984.4 shall apply to the loan, but shall not authorize the lender or the lender's successor in interest to charge for any costs, fees, or expenses or to obtain any other benefit which the lender is prohibited from charging or obtaining under any regulatory law applicable to the lender.

(4) The lender or the lender's successor in interest shall be subject to all claims and defenses which the buyer could assert against the seller, but liability may not exceed the amount of the loan.

(5) If the buyer becomes obligated to purchase, or receives possession of, the motor vehicle prior to obtaining the loan, the agreement between the buyer and the seller shall set forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each installment, that the buyer may be required to pledge security for the loan, which security must be mutually agreed to by the buyer and the lender, and notice to the buyer in at least eight-point type that the buyer is obligated for the installment payments on the loan and for any payments which may be due on the agreement between the buyer and the seller. The seller shall not provide any security or other guarantee of payment on the loan, and the seller shall not receive any commission or other remuneration for assisting the buyer to obtain the loan. If the buyer upon proper application for the loan is unable to obtain the loan, on the condition stated in the agreement between the buyer and the seller, the agreement shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(6) Any waiver by the buyer of the provisions of this section shall be void and unenforceable.

This subdivision shall not apply to state or federally chartered banks and savings and loan associations and shall not be construed to affect existing law regarding a seller's assisting a buyer to obtain a loan from a bank or savings and loan association or any loan obtained by the buyer from those lenders.

CHAPTER 406

An act relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Notwithstanding the provisions of Sections 54902, 54902.1, and 54903 of the Government Code, the formation of County Service Area EM 1983-1 in the County of Alameda to provide paramedic services shall be effective for assessment and taxation purposes for the 1983–84 fiscal year if the statement and map or plat required by Sections 54900 and 54901 of the Government Code are filed with the State Board of Equalization and each assessor whose roll is used for the levy on or before August 31, 1983.

SEC. 2. Notwithstanding Sections 54902, 54902.1, and 54903 of the Government Code, any change of organization or reorganization which results in a volunteer fire company in San Diego County attaining special district status, either through formation or through annexation to an existing special district, shall be effective for assessment and taxation purposes for the 1983–84 fiscal year if the required statements and map or plat are filed on or before June 30, 1983.

SEC. 3. (a) The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstance of County Service Area EM 1983-1 in Alameda County being unable to file the statement and map or plat required by Section 54900 of the Government Code by January 1, 1982.

(b) The Legislature further finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the volunteer fire department in San Diego County attaining special district status and filing a statement and map or plat in 1983.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

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 for County Service Area EM 1983-1 formed in Alameda County to provide paramedic services to obtain needed revenues to operate for the 1983–84 fiscal year, and in order for needed firefighting services to be provided in San Diego County for the 1983–84 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 407

An act to add Section 16202 to the Government Code, and to amend Sections 4702, 4717, 16900, and 16950 of, and to add Section 4702.7 to, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor July 26, 1983 Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 16202 is added to the Government Code, to read:

16202. Notwithstanding any other provision of law, in the event that the state acquires an interest in real property pursuant to subdivision (b) of Section 16200, the Controller may, in addition to the options provided in Section 16201, take any other action with respect to that real property interest as will best serve the interest of the state. These actions may include, but shall not be limited to, the sale, lease, or retention of any interest so acquired. The Controller may contract with licensed real estate brokers, maintenance and repair contractors, security contractors, appraisers, property managers, insurance brokers, and any other experts or specialists as may be necessary to protect or preserve the state's interest in that property. The Controller may pay the costs incurred pursuant to those contracts out of the amount appropriated by Section 16100, or from any appropriation in lieu thereof.

The sale of those interests may be made on the basis of conventional financing arrangements including the securing of payment through the use of promissory notes, deeds of trust, and other accepted methods of deferred payment.

SEC. 2. Section 4702 of the Revenue and Taxation Code is amended to read:

4702. The procedure authorized by this chapter may be placed in effect in any county by resolution of the board of supervisors of that county adopted not later than July 15th of the fiscal year for which it is to first apply and shall thereafter remain in effect unless the board shall order its discontinuance or unless, prior to the commencement of any subsequent fiscal year, the board shall receive a petition for its discontinuance joined in by resolutions duly adopted by the governing boards of not less than two-thirds of the participating revenue districts in the county, in which event the board shall order discontinuance of the procedure effective at the commencement of the subsequent fiscal year.

SEC. 3. Section 4702.7 is added to the Revenue and Taxation Code, to read:

4702.7. In any county electing to follow the procedure authorized by this chapter the board of supervisors by resolution, adopted not later than July 15th of the fiscal year for which it is first to apply after holding a public hearing on the matter, may discontinue those procedures with respect to any tax levying agency or assessment levying agency in the county if the rate of secured tax delinquency in that agency in any year exceeds 3 percent of the total of all taxes and assessments levied on the secured rolls in that agency.

SEC. 4. Section 4717 of the Revenue and Taxation Code is

amended to read:

4717. If a tax payment which is insufficient to cover the amount of taxes due and payable is received by the tax collector of a county that has elected to follow the procedure authorized by this chapter, the tax collector shall place the tax payment in a trust fund and immediately notify the taxpayer of the deficiency.

In the case of a deficiency in the payment of secured taxes, the taxpayer may pay the balance due until the date on which the property is sold to the state by operation of law. If payment of the balance due is not received on or before the sale date, the insufficient payment shall be returned to the taxpayer, and sale to the state shall be made in the usual manner as provided in this code.

In the case of a deficiency in the payment of unsecured taxes, the taxpayer may pay the balance due within six months after the date of the insufficient payment. If payment of the balance due is not made within such time, the tax collector or other officer collecting unsecured taxes shall credit the amount of the insufficient payment on the unsecured roll.

If payment of the balance due is made within the time specified in this section, any delinquent penalty which attaches by operation of law shall be computed only upon the additional amount required to bring the payment to a nondelinquent status.

The county auditor shall make the necessary adjustments in the tax rolls and in the tax and penalty charges.

The tax collector may accept payments which are within ten dollars ($10) of the tax due as payment in full. The auditor or controller shall prescribe methods for accounting and adjusting their accounts in this matter.

The provisions of this section shall become effective in any county when authorized by resolution adopted by majority vote of the board of supervisors of such county.

SEC. 5. Section 16900 of the Revenue and Taxation Code is amended to read:

16900. This part is administered by the Controller.

SEC. 6. Section 16950 of the Revenue and Taxation Code is amended to read:

16950. All money due under this part shall be paid to the Controller by remittance payable to the State Treasurer. The amounts received shall be deposited, after clearance of remittance, in the State Treasury to the credit of the Estate Tax Fund.

CHAPTER 408

An act to amend Section 3294 of the Civil Code, relating to damages.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983]

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 and conscious disregard, authorization, 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.

(d) Damages may be recovered pursuant to this section in an action pursuant to Section 377 of the Code of Civil Procedure or Section 573 of the Probate Code based upon a death which resulted from a homicide for which the defendant has been convicted of a felony, whether or not the decedant died instantly or survived the fatal injury for some period of time. The procedures for joinder and consolidation contained in Section 377 of the Code of Civil Procedure shall apply to prevent multiple recoveries of punitive or exemplary damages based upon the same wrongful act.

SEC. 2. This act is part of the Crime Victim Restitution Program of 1983 in that it expands the ability of survivors of homicide victims to obtain punitive damages from convicted criminals.

CHAPTER 409

An act to amend Sections 6702 and 6703 of, to add Sections 516, 4000.4, and 8804 to, and to repeal and add Sections 6700 and 6704 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. The Legislature finds and declares that numerous residents of California and others living in the state operate vehicles that are based in California, but are registered with foreign license plates. These vehicles and their operators regularly use the highways of California, but do not contribute their fair share of registration fees, license fees, and other payments incidental to the operation of vehicles in California.

SEC. 2. Section 516 is added to the Vehicle Code, to read:

516. "Resident" means any person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Presence in the state for six months or more in any twelve-month period gives rise to a rebuttable presumption of residency.

The following are evidence of residency:

(a) Address where registered to vote.

(b) Location of employment or place of business.

(c) Payment of resident tuition at a public institution of higher education.

(d) Attendance of dependents at a primary or secondary school.

(e) Filing a homeowner's property tax exemption.

(f) Renting or leasing a home for use as a residence.

(g) Declaration of residency to obtain a license or any other privilege or benefit not ordinarily extended to a nonresident.

(h) Possession of a California driver's license.

(i) Other acts, occurrences, or events that indicate presence in the state is more than temporary or transient.

SEC. 3. Section 4000.4 is added to the Vehicle Code, to read:

4000.4. (a) Except as provided in Sections 6700, 6702, and 6703, a vehicle which is based in California or which primarily uses California highways shall be registered in California.

(b) For purposes of this section and Section 6700, a vehicle is deemed to be primarily or regularly used on the highways of this state if the vehicle is located or operated in this state for a greater amount of time than it is located or operated in any other individual state during the registration period in question.

SEC. 4. Section 8804 is added to the Vehicle Code, to read:

8804. Every person who, while a resident, as defined in Section 516, of this state, with respect to any vehicle owned by him and

operated in this state, registers or renews the registration for the vehicle in a foreign jurisdiction, without the payment of appropriate fees and taxes to this state, is guilty of a misdemeanor.

SEC. 5. Section 6700 of the Vehicle Code is repealed.

SEC. 6. Section 6700 is added to the Vehicle Code, to read:

6700. (a) A nonresident owner of a vehicle may operate or permit the operation of the vehicle in this state without registering the vehicle in this state if the vehicle is registered in the place of residence of the owner and displays upon it valid license plates issued by that place. This exemption does not apply if the nonresident owner rents, leases, lends, or otherwise furnishes the vehicle to a California resident for regular use on the highways of this state, as defined in subdivision (b) of Section 4000.4.

(b) Any resident who operates upon a highway of this state a vehicle owned by a nonresident who furnished the vehicle to the resident operator for his or her regular use within this state, as defined in subdivision (b) of Section 4000.4, shall cause the vehicle to be registered in California within 20 days after its first operation within this state by the resident.

SEC. 7. Section 6702 of the Vehicle Code is amended to read:

6702. Any nonresident owner of a vehicle of a type subject to registration in this state who, while temporarily living within this state, accepts gainful employment within this state is entitled to the exemption granted under Section 6700, but only for one year or until the expiration of the valid home state license plates on the vehicle at the time the nonresident accepted gainful employment within this state, whichever occurs earlier.

SEC. 8. Section 6703 of the Vehicle Code is amended to read:

6703. Any nonresident owner of a vehicle of a type subject to registration under this code who becomes a resident of this state is entitled to the exemption granted under Section 6700, but only for one year or until the expiration of the valid home state license plates on the vehicle at the time the owner became a resident of this state, whichever occurs earlier.

SEC. 9. Section 6704 of the Vehicle Code is repealed.

SEC. 10. Section 6704 is added to the Vehicle Code, to read:

6704. Every nonresident having an established place of business within this state, and regularly using a vehicle of a type subject to registration under this code in the course of that business, shall register the vehicle under this code.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 410

An act to amend Sections 25251, 25251.3, and 25251.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 25251 of the Vehicle Code is amended to read:

25251. (a) Flashing lights are permitted on vehicles as follows:

(1) To indicate an intention to turn or move to the right or left upon a roadway, turn signal lamps and turn signal exterior pilot indicator lamps and side lamps permitted under Section 25106 may be flashed on the side of a vehicle toward which the turn or movement is to be made.

(2) When disabled upon the roadway or when disabled or parked off the roadway but within 10 feet thereof, turn signal lamps may be flashed as warning lights if the front turn signal lamps at each side are being flashed simultaneously and the rear turn signal lamps at each side are being flashed simultaneously.

(3) To warn other motorists of accidents or hazards on a roadway, turn signal lamps may be flashed as warning lights while the vehicle is approaching, overtaking, or passing the accident or hazard on the roadway if the front turn signal lamps at each side are being flashed simultaneously and the rear turn signal lamps at each side are being flashed simultaneously.

(4) For use on authorized emergency vehicles.

(5) To warn other motorists of a funeral procession, turn signal lamps may be flashed as warning lights on all vehicles actually engaged in a funeral procession, if the front turn signal lamps at each side are being flashed simultaneously and the rear turn signal lamps at each side are being flashed simultaneously.

(b) Side lamps permitted under Section 25106 and used in conjunction with turn signal lamps may be flashed with the turn signal lamps as part of the warning light system, as provided in paragraphs (2) and (3) of subdivision (a).

(c) Required or permitted lamps on a trailer or semitrailer may flash when the trailer or semitrailer has broken away from the towing vehicle and the connection between the vehicles is broken.

SEC. 2. Section 25251.3 of the Vehicle Code is amended to read:

25251.3. No civil liability shall attach to any person for the use or nonuse of turn signal lamps in the manner permitted by paragraph (3) or (5) of subdivision (a) of Section 25251, except for such civil liability as would attach for the use or nonuse of any other device required by this article or Article 8 (commencing with Section 25300).

SEC. 3. Section 25251.5 of the Vehicle Code is amended to read:

25251.5. (a) Any motor vehicle may also be equipped with a system in which an amber light is center mounted on the rear of a vehicle to communicate a component of deceleration of the vehicle, and which light pulses in a controlled fashion at a rate which varies exponentially with a component of deceleration.

(b) Any motor vehicle may be equipped with two amber lamps on the rear of the vehicle which operate simultaneously with not more than four flashes within four seconds after the accelerator pedal is in the deceleration position and which are not lighted at any other time. The lamps shall be mounted at the same height, with one lamp located on each side of the vertical centerline of the vehicle, not higher than the bottom of the rear window, or if the vehicle has no rear window, not higher than 60 inches The light output from each of the lamps shall not exceed 200 candlepower at any angle horizontal or above. The amber lamps may be used either separately or in combination with another lamp.

(c) Any stoplamp or supplemental stoplamp required or permitted by Section 24603 may be equipped so as to flash not more than four times within the first four seconds after actuation by application of the brakes.

CHAPTER 411

An act to amend Section 11520.5 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 11520.5 of the Insurance Code is amended to read:

11520.5. No person shall transact in this state the business described in this chapter without first procuring a certificate of authority from the commissioner for such purpose. Application for such certificate shall be made on a form prescribed by the commissioner accompanied by a filing fee of one thousand five hundred dollars ($1,500). Such certificate shall not be granted until the applicant conforms to the requirements of this chapter and the laws of this state prerequisite to its issue. After such issue the holder shall continue to comply with the requirements of this chapter and the laws of this state. Where a hearing is held under this section the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, and the commissioner shall have all of the

powers granted therein.

Subject to the annual fee provisions herein, every certificate of authority issued or held under this chapter shall be for an indefinite term and, unless sooner revoked by the commissioner, shall terminate upon occurrence of any of the following:

(a) Upon the holder's ceasing to exist as a separate entity.

(b) Upon the winding up or dissolution, or expiration or forfeiture of the corporate existence of a corporate holder thereof.

(c) Upon winding up or dissolution of a holder not a corporation.

(d) In any event upon surrender by the holder of its certificate of authority and cancellation of the same by the commissioner.

The commissioner shall not cancel a surrendered certificate of authority until he is satisfied by examination, or otherwise, that the former holder has discharged its annuity liabilities to residents of this state or satisfactorily reinsured the same.

Notwithstanding the preceding provisions for a certificate of authority of indefinite term, each holder of a certificate of authority under this chapter shall owe and pay in advance to the commissioner in lawful money of the United States an annual fee of fifty dollars ($50) on account of such certificate of authority until its final termination or revocation. Such fee shall be for annual periods commencing on July 1st of each year and ending on June 30th of each year and shall be due on each March 1st and shall be delinquent on and after each April 1st.

Each holder of a certificate of authority shall also be subject to the payment in advance of the following fees, as appropriate:

(1) One hundred dollars ($100) for each amended certificate of authority caused by a change of the name of the holder.

(2) Seventy-five dollars ($75) for the services and expenses of the commissioner in connection with the filing of amended articles by a holder.

(3) Three hundred dollars ($300) for all services and expenses of the commissioner in connection with the withdrawal of a holder of a certificate of authority under this chapter.

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 that charitable organizations and the citizens served by them have the benefit of this act during the 1983 calendar year, it is necessary that this act take effect immediately.

CHAPTER 412

An act to amend Section 2228 of the Business and Professions Code, relating to healing arts.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 2228 of the Business and Professions Code is amended to read:

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.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care, as defined by the Division of Medical Quality.

CHAPTER 413

An act to amend Section 10170.4 of, to add Section 10170.5 to, to amend and repeal Section 10171 of, to amend and renumber Section 10171.1 of, and to repeal Article 2.5 (commencing with Section 10170) of Chapter 3 of Part 1 of Division 4 of, the Business and Professions Code, and to repeal Section 11 of Chapter 1346 of the Statutes of 1976, relating to real estate licenses.

[Approved by Governor July 26, 1983 Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 10170.4 of the Business and Professions Code is amended to read:

10170.4. The commissioner shall adopt regulations pursuant to Section 10080, to prescribe all of the following:

(a) A definition of basic requirements for continuing education of 45 clock hours of attendance at approved educational courses, seminars, workshops, or conferences, or their equivalent, achieved during a four-year period preceding license renewal application.

(b) A basis and method of qualifying educational programs, the successful completion of which, will satisfy the requirements of this article.

(c) A procedure for evaluation of petitions based on a claim of equivalency with the requirements of subdivision (a), and a reasonable standard by which an activity would be judged equivalent, including, but not limited to, instruction in real estate subjects, publication of professional articles or books, or development of real estate educational programs, law or research.

(d) A system of control and reporting qualifying attendance.

(e) An appropriate form of testing, examination or evaluation by the sponsor of each approved educational program, or equivalent, of the attendee.

(f) A statement of the conditions of exemption from the continuing education requirements established under this article, as well as a method of applying and qualifying for these exemptions, for reasons of health, military service, or other compelling cause.

In exercising the authority under this article, the commissioner shall establish standards which will assure reasonable currency of knowledge as a basis for a level of real estate practice which will provide a high level of consumer protection and of competence in achieving the objectives of members of the public who engage the services of licensees. The standards shall permit a variety of alternatives of subject material to licensees taking cognizance of specialized areas of practice, and alternatives in sources of programs considering availability in area and time. The standards shall include, where qualified, generally accredited educational institutions, private vocational schools, correspondence institutions, educational programs, workshops, and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings.

SEC. 2. Section 10170.5 is added to the Business and Professions Code, to read:

10170.5. On and after January 1, 1985, no real estate license shall be renewed unless the commissioner finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including all of the following:

(a) A three-hour course in ethics, professional conduct, and legal aspects of real estate, which shall include, but not be limited to,

relevant legislation, regulations, articles, reports, studies, court decisions, treatises, and information of current interest.

(b) Not less than 21 clock hours of courses or programs related to consumer protection, and designated by the commissioner as satisfying this purpose in his or her approval of the offering of these courses of programs, which shall include, but not be limited to, forms of real estate financing relevant to serving consumers in the marketplace; land use regulation and control; pertinent consumer disclosures; agency relationships; capital formation for real estate development; fair practices in real estate; appraisal and valuation techniques; landlord-tenant relationships; energy conservation; environmental regulation and consideration; taxation as it relates to consumer decisions in real estate transactions; probate and similar disposition of real property; governmental programs such as revenue bond activities, redevelopment, and related programs; business opportunities; and mineral, oil, and gas conveyancing.

(c) Other courses and programs which will enable a licensee to achieve a high level of competence in serving the objectives of consumers who may engage the services of licensees to secure the transfer, financing, or similar objectives with respect to real property, including organizational and management techniques which will significantly contribute to this goal.

Any denial of a license pursuant to this section shall be subject to the provisions of Section 10100.

SEC. 3. Section 10171 of the Business and Professions Code is amended to read:

10171. No real estate license shall be renewed unless the commissioner finds that the applicant for the license has completed the continuing education required by this chapter. Any denial of a license pursuant to this section shall be subject to the provisions of Section 10100.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed.

SEC. 4. Section 10171.1 of the Business and Professions Code, as added by Chapter 263 of the Statutes of 1980, is amended and renumbered to read:

10171.5. A person who is licensed as a real estate broker only as an officer of a corporate broker pursuant to Section 10158 or 10211 shall not be eligible for the renewal of such license nor for the issuance of a license in an individual capacity or as an officer of a corporate broker licensed pursuant to Section 10158 or 10211, unless and until such person has completed the continuing education requirements of this article.

SEC. 5. Section 11 of Chapter 1346 of the Statutes of 1976 is repealed.

SEC. 6. Article 2.5 (commencing with Section 10170) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute which is chaptered before

January 1, 1989, deletes or extends that date.

SEC. 7. Qualifying continuing education completed by a licensee pursuant to law existing prior to enactment of this act shall continue to qualify for license renewal, notwithstanding any change effected by amendments contained in this act.

CHAPTER 414

An act to amend Section 411.35 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 411.35 of the Code of Civil Procedure is amended to read:

411.35. (a) In every action including a cross-complaint for damages or indemnity arising out of the professional negligence of a person holding a valid architect's certificate issued pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or of a person holding a valid registration as a professional engineer issued pursuant to Chapter 7 (commmencing with Section 6700) of Division 3 of the Business and Professions Code, or a person holding a valid land surveyor's license issued pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified by subdivision (b).

(b) A certificate shall be executed by the attorney for the plaintiff or cross-complainant declaring one of the following:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one architect, professional engineer, or land surveyor who is licensed to practice and practices in this state or any other state, or who teaches at an accredited college or university and is licensed to practice in this state or any other state, in the same discipline as the defendant or cross-defendant and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action. The person consulted may not be a party to the litigation.

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a

certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after filing the complaint.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate architects, professional engineers, or land surveyors to obtain such consultation and none of those contacted would agree to such a consultation.

(c) Where a certificate is required pursuant to this section, only one certificate shall be filed, notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.

(d) Where the attorney intends to rely solely on the doctrine of "res ipsa loquitur," as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a procedure or both, and for that reason is not filing a certificate required by this section.

(e) For purposes of this section, and subject to Section 912 of the Evidence Code, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the architect, professional engineer, or land surveyor consulted and the contents of such consultation. The privilege shall also be held by the architect, professional engineer, or land surveyor so consulted, provided when the attorney makes a claim under paragraph (3) of subdivision (b) that he was unable to obtain the required consultation with the architect, professional engineer, or land surveyor, the court may require the attorney to divulge the names of architects, professional engineers, or land surveyors refusing such consultation.

(f) A violation of the provisions of this section may constitute unprofessional conduct and be grounds for discipline against the attorney, except that the failure to file the certificate required by paragraph (1) of subdivision (b), within 60 days after filing the complaint and certificate provided for by paragraph (2) of subdivision (b), shall not be grounds for discipline against the attorney.

(g) The failure to file a certificate in accordance with this section shall be rounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(h) This section shall be operative until January 1, 1987, and on that date is repealed.

CHAPTER 415

An act to amend Section 10783 of the Revenue and Taxation Code, and to amend Section 9105 of, and to add Section 5101.6 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 10783 of the Revenue and Taxation Code is amended to read:

10783. The license fee imposed by this part does not apply to a passenger vehicle, a motorcycle, or a commercial vehicle of less than 6,001 pounds unladen weight, unless the vehicle is used for transportation for hire, compensation, or profit, if the vehicle is owned by any veteran whose disability has been rated, by the United States Veterans' Administration or the military service from which the veteran was discharged, at 100 percent due to a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device, or who has lost, or has lost the use of, two or more limbs, or one eye and any limb, or who has suffered permanent blindness as defined in Section 19153 of the Welfare and Institutions Code, as a result of injury or disease suffered while on active service with the armed forces of the United States, and any veteran who is a Congressional Medal of Honor recipient.

The exemption granted by this section shall extend to not more than one vehicle owned by the veteran. The Department of Motor Vehicles may require any disabled veteran to submit a certificate substantiating the disability, signed by a physician or surgeon.

SEC. 2. Section 5101.6 is added to the Vehicle Code, to read:

5101.6. (a) Any person otherwise eligible under this article who is a Congressional Medal of Honor recipient may apply for special license plates for the vehicle under this article. The special plates assigned to the vehicle shall run in a separate numerical series and shall have inscribed on the plate the words "Congressional Medal of Honor" or "Medal of Honor." The department shall reserve and issue the special plates to all applicants providing the proof required by subdivision (b).

(b) The applicant shall, by satisfactory proof, show that the applicant is a Congressional Medal of Honor recipient.

(c) Special plates may be issued pursuant to subdivision (a) only for a vehicle owned or coowned by a recipient of the Congressional Medal of Honor. The special plates shall be surrendered to the department upon the decease of the Congressional Medal of Honor recipient, and any vehicle exempted from fees by Section 9108 and by Section 10783 of the Revenue and Taxation Code shall lose the

exemption.

(d) Sections 5106, 5108, and 22511 do not apply to this section.

SEC. 3. Section 9105 of the Vehicle Code is amended to read:

9105. The fees specified in this code except fees for duplicate plates, certificates, or cards need not be paid for any of the following vehicles, which are of a type subject to registration under this code, and which are not used for transportation for hire, compensation, or profit, when owned by any disabled veteran, as described in Section 22511.9, or any recipient of the Congressional Medal of Honor:

(a) Any passenger motor vehicle.

(b) Any motorcycle.

(c) Any commercial motor vehicle of less than 6,001 pounds unladen weight.

The exemption granted by this section shall not extend to more than one vehicle owned by any disabled veteran or Congressional Medal of Honor recipient. The department may require any disabled veteran applying for an exemption under this section to submit a certificate signed by a physician or surgeon substantiating the disability. Any person applying for an exemption under this section by reason of receiving the Congressional Medal of Honor shall, by satisfactory proof, show that the applicant is a Congressional Medal of Honor recipient.

CHAPTER 416

An act to amend Section 32043 of the Education Code, relating to school safety.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 32043 of the Education Code is amended to read:

32043. (a) Whenever a field trip is conducted into an area which is commonly known to be infested by poisonous snakes, the first aid kit may include a snakebite kit.

(b) Any first aid kit or snakebite kit taken into an area which is commonly known to be infested by poisonous snakes shall contain medically accepted snakebite remedies.

(c) Any field trip into an area which is commonly known to be infested by poisonous snakes that is conducted by any public or private school in the state shall be accompanied by a teacher, employee, or agent of the school who has completed a course in first aid, certified by the American Red Cross, which emphasizes the treatment of snakebites. It shall be the responsibility of the school conducting the field trip to comply with the requirements of this

section and nothing in this section shall be construed as requiring the American Red Cross to provide first aid courses in any manner or location.

CHAPTER 417

An act to amend Sections 18950, 27594, 58939, 59946, 64311, and 64697 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 26, 1983 Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 18950 of the Food and Agricultural Code is amended to read:

18950. The Legislature finds and declares that:

(a) Sausage products and cured and smoked meat products which are processed and sold at retail meat processing establishments and custom slaughtered carcasses are an important source of the food supply in California; and it is essential and in the public interest that the health and welfare of consumers of these products are protected by ensuring that meat, both slaughtered and processed, is wholesome and not adulterated.

(b) Meat processing establishments and custom slaughter establishments exempt from federal inspection have been required to be inspected in California.

(c) There is a public demand for specialty meat food products and there has been an increase in the number of meat processing establishments manufacturing these products.

(d) Specialty meat food products are sold and displayed in meat markets and are difficult to distinguish from United States Department of Agriculture inspected and passed products.

SEC. 2. Section 27594 of the Food and Agricultural Code is amended to read:

27594. (a) The director, or the commissioner under the direction and supervision of the director, shall inspect eggs at the point of destination upon the request of a retailer or a consumer. The director, or the commissioner under the direction and supervision of the director, may also perform this inspection when he or she has probable cause to believe that a violation of this chapter, or a regulation adopted thereunder, is presently occurring or has recently occurred.

(b) In addition, retail inspection for monitoring purposes may be conducted by the commissioners.

SEC. 3. Section 58939 of the Food and Agricultural Code is amended to read:

58939. Any money which is deposited pursuant to this article,

which the director determines is available for investment, may be invested or reinvested by the Treasurer or an advisory board in any of the securities which are described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury.

Any increment which is received from the investment or reinvestment or deposit, if made by the Treasurer, shall be remitted to the advisory board whose funds were invested, reinvested, or deposited, and shall be deposited and disbursed as provided in Sections 58937 and 58938. The Treasurer may deduct from the remittance an amount equal to the reasonable costs incurred in carrying out this section or may bill the advisory board for the costs, and the advisory board shall pay the costs from money which is collected for it pursuant to this chapter.

SEC. 4. Section 59946 of the Food and Agricultural Code is amended to read:

59946. All fees shall be deposited promptly by the proration zone agent in a bank which is approved by the Director of Finance, and shall be accounted for immediately to the Director of Food and Agriculture. Each deposit shall be made in the name of the proration zone under which the funds are collected.

Any money which is so deposited may be invested and reinvested by the Treasurer or marketing program committee in any of the securities which are described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury. For these purposes, these moneys may also be combined with funds which are determined by the director to be available for investment pursuant to Section 58939. Any increment which is received from investment, reinvestment, or deposit made by the Treasurer shall be remitted to the marketing program committee. The Treasurer may deduct from the remittance an amount equal to the reasonable cost incurred in carrying out this section or may bill the marketing program committee for the costs, and the marketing program committee shall pay the costs from any money which is collected for it pursuant to this chapter.

SEC. 5. Section 64311 of the Food and Agricultural Code is amended to read:

64311. Any money which is deposited pursuant to Section 64309, which the director determines is available for investment, may be invested or reinvested by the Treasurer or the council in any of the securities described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing

with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury. For these purposes, these moneys may also be combined with funds determined by the director to be available for investment pursuant to Section 58939.

SEC. 6. Section 64697 of the Food and Agricultural Code is amended to read:

64697. Money which is deposited pursuant to Section 64696 may be invested and reinvested by the Treasurer or the council in any of the securities described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury. For these purposes, the money may also be combined with funds which are determined by the director to be available for investment pursuant to Section 58939. Any increment which is received from investment, reinvestment, or deposit made by the Treasurer shall be remitted to the council. The Treasurer may deduct from the remittance an amount equal to the reasonable cost incurred in carrying out this section or may bill the council for the costs, and the council shall pay the costs from money which is collected for it pursuant to this chapter.

CHAPTER 418

An act to add Section 15610 to the Corporations Code, and to amend Sections 12209, 12213 and 12214 of the Government Code, relating to limited partnerships, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 15610 is added to the Corporations Code, to read:

15610. Notwithstanding the provisions of Section 15612 or 15613, any limited partnership organized under the laws of this state or any foreign limited partnership existing on October 1, 1983, which has recorded its existence with a county recorder, may file under the provisions of Section 15612 or 15613 as provided therein for the purpose of permitting the Secretary of State to establish a name availability file for the implementation of the provisions of Section 15512 on January 1, 1984, and to establish other files pertaining to these limited partnerships to permit an orderly implementation of the Limited Partnership Act on January 1, 1984. Filings with the

Secretary of State under the provisions of this section may only be made on or after October 1, 1983. Those documents acceptable for filing shall be filed as of January 1, 1984.

SEC. 2. Section 12209 of the Government Code, as amended by Chapter 997 of the Statutes of 1982, is amended to read:

12209. Upon the filing of any document as to a corporation or pursuant to any provision of the Corporations Code (other than pursuant to Chapter 2 (commencing with Section 15511) of Title 2 of the Corporations Code) for which there is a filing fee of fifteen dollars ($15) or more or upon the filing of any document referred to in subdivision (b) of Section 12205, the Secretary of State shall compare and certify up to two copies thereof, or two copies for each merger transaction, without charge provided that the copies are submitted to the Secretary of State with the original to be filed.

SEC. 3. Section 12213 of the Government Code is amended to read:

12213. The fee for filing a certificate of limited partnership or an application for registration as a foreign limited partnership is seventy dollars ($70).

SEC. 4. Section 12214 of the Government Code is amended to read:

12214. The fee for filing an amendment to the certificate of limited partnership or to the application for registration of a foreign limited partnership is fifteen dollars ($15). There is no fee for filing a certificate of dissolution or certificate of cancellation by a limited partnership, either domestic or foreign.

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 effectively implement the provisions of Chapter 997 of the Statutes of 1982 and to clarify the applicability of certain filing fees, this act must take effect immediately.

CHAPTER 419

An act to add Section 2773.5 to the Public Utilities Code, relating to gas.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 2773.5 is added to the Public Utilities Code, to read:

2773.5. Notwithstanding any rule, order, or decision of the commission to the contrary, industrial gas customers which use gas

to generate steam for enhanced crude oil recovery or for cogeneration shall not be required to maintain any alternative fuel capacity. Nothing in this section shall require the commission to assign these industrial customers any higher gas priority as a result of the elimination of this alternative fuel requirement.

CHAPTER 420

An act to add Section 6514.1 to the Health and Safety Code, relating to local government.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 6514.1 is added to the Health and Safety Code, to read:

6514.1. (a) A district may lease, for a term not exceeding 99 years, subject to periodic review, district property which will not be needed for the purposes of the district during the term of the lease as a means of providing revenues to the district for the operation and maintenance of sanitary sewer system and waste water treatment and disposal facilities of the district and to finance the acquisition, construction, and improvement of these facilities.

(b) Prior to entering into such a lease, the board shall publish notice pursuant to Section 6066 of the Government Code of the time and place of the meeting of the board at which the proposed lease will be considered, and at that time and place shall afford all persons present an opportunity to be heard with respect to the proposed lease.

(c) If the board finds that the subject property will not be needed by the district and that it is in the best interests of the district and the users of its sanitary sewer system that the lease be entered into, it may, by ordinance setting forth such findings, authorize the lease. The ordinance shall be subject to the provisions of Article 2 (commencing with Section 5200) of Chapter 4 of Division 5 of the Elections Code.

(d) Every lease shall be awarded to the bidder which in the determination of the legislative body offers the greatest economic return to the district after competitive bidding conducted in the manner determined by the legislative body. Notice inviting bids shall be published pursuant to Section 6066 in one or more newspapers of general circulation within the district.

CHAPTER 421

An act to amend Sections 11225 and 11230 of the Penal Code, relating to nuisances.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 11225 of the Penal Code is amended to read:

11225. Every building or place used for the purpose of illegal gambling as defined by state law or local ordinance, lewdness, assignation, or prostitution, and every building or place in or upon which acts of illegal gambling as defined by state law or local ordinance, lewdness, assignation, or prostitution, are held or occur, is a nuisance which shall be enjoined, abated and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

Nothing in this section shall be construed to apply the definition of a nuisance to a private residence where illegal gambling is conducted on an intermittent basis and without the purpose of producing profit for the owner or occupier of the premises.

SEC. 2. Section 11230 of the Penal Code is amended to read:

11230. If the existence of a nuisance is established in an action as provided in this article, an order of abatement shall be entered as a part of the judgment in the case, directing the removal from the building or place of all fixtures, musical instruments and movable property used in conducting, maintaining, aiding or abetting the nuisance, and directing the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and that it be kept closed for a period of one year, unless sooner released. While such order remains in effect as to closing, such building or place is and shall remain in the custody of the court. For removing and selling the movable property, the officer is entitled to charge and receive the same fees as he would for levying upon and selling like property on execution. For closing the premises and keeping them closed, a reasonable sum shall be allowed by the court.

In lieu of ordering the building or place closed, the court may order the person who is responsible for the existence of the nuisance to pay damages in an amount not to exceed the fair market rental value of the building or place for one year. The actual amount of rent being received for the rental of the building or place, or the existence of any vacancy therein, may be considered, but shall not be the sole determinant of the fair market rental value. Expert testimony may be used to determine the fair market rental value.

Damages collected pursuant to this section shall be deposited in the Restitution Fund in the State Treasury, the proceeds of which

shall be available for appropriation by the Legislature to indemnify persons filing claims 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. 3. This act is part of the Crime Victim Restitution Program of 1983 in that it increases the amount of money available to compensate victims of crime by assessing damages against the operators of public nuisances.

CHAPTER 422

An act to amend Section 1157 of the Evidence Code, relating to podiatrists.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 1157 of the Evidence Code is amended to read:

1157. Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, or veterinary staffs in hospitals having the responsibility of evaluation and improvement of the quality of care rendered in the hospital or medical or dental review or dental hygienist review or chiropractive review or podiatric review or veterinary review committees of local medical, dental, dental hygienist, podiatric, veterinary, or chiropractic societies shall be subject to discovery. Except as hereinafter provided, no person in attendance at a meeting of any such committee shall be required to testify as to what transpired thereat. The prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject matter of which was reviewed at such meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

The prohibitions contained in this section shall not apply to medical, dental, dental hygienist, podiatric, veterinary or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any such committee if any person serves upon the committee when his own conduct or practice is being reviewed.

The amendments made to this section at the 1983 portion of the 1983–84 Regular Session of the Legislature shall not exclude the discovery or use of relevant evidence in a criminal action.

CHAPTER 423

An act to amend Sections 32513 and 34952 of, to add Sections 33781 and 33782 to, to repeal Chapter 7 (commencing with Section 33901) of Part 1 of Division 15 of, and to repeal and add Article 3 (commencing with Section 37461) to Chapter 4 of Part 3 of Division 15 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 32513 of the Food and Agricultural Code is amended to read:

32513. "Milk products plant" means any place in which a person engages in the business of handling, receiving, manufacturing, freezing, processing, or packaging milk, or any product of milk or engages in the business of manufacturing, freezing, or processing imitation ice cream or imitation ice milk. However, "milk products plant" does not include any retail establishment which packages dairy products in the presence of the consumer.

SEC. 2. Section 33781 is added to the Food and Agricultural Code, to read:

33781. A room in which cheese and cheese products are cut, wrapped, and packaged into individual consumer packages shall be maintained in accordance with the sanitary requirements of this chapter. However, foods which do not affect the flavor or quality of the cheese and cheese products and are not maintained in accordance with the sanitary requirements of this chapter may be handled in such a room.

SEC. 3. Section 33782 is added to the Food and Agricultural Code, to read:

33782. All of the provisions of this chapter apply to any building or structure in which any product resembling a milk product is manufactured, processed, or compounded. However, food which does not affect the flavor or quality of the products and which is not maintained in accordance with the sanitary requirements of this chapter may be handled in the building or structure.

SEC. 4. Chapter 7 (commencing with Section 33901) of Part 1 of Division 15 of the Food and Agricultural Code is repealed.

SEC. 5. Section 34952 of the Food and Agricultural Code is amended to read:

34952. "Milk products plant license" means a license which is issued by the director pursuant to Section 35015 for a milk products plant.

SEC. 6. Article 3 (commencing with Section 37461) of Chapter 4 of Part 3 of Division 15 of the Food and Agricultural Code is repealed.

SEC. 7. Article 3 (commencing with Section 37461) is added to

Chapter 4 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 3. Standards for Cheese

37461. Any lot or package of cheese sold, represented, or labeled as any United States grade shall meet the cheese grading requirements and standards as established by the United States Department of Agriculture for that type of cheese and shall be graded by a United States Department of Agriculture approved cheese grader.

37462. The director, by regulation, may adopt grade standards for cheese types if grade standards for a type of cheese have not been adopted in the Code of Federal Regulations.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 424

An act to add Sections 57024, 57036, 57037, 57038, and 57039 to, to repeal Section 57006 of, and to repeal Article 7 (commencing with Section 57051) of Chapter 8.5 of Division 20 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 26, 1983 Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 57006 of the Food and Agricultural Code is repealed.

SEC. 2. Section 57024 is added to the Food and Agricultural Code, to read:

57024. All vehicles shall be unloaded in a timely manner and in the order in which they arrive at the market, when the vehicles are unloaded by registered unloaders.

SEC. 3. Section 57036 is added to the Food and Agricultural Code, to read:

57036. If a scale of charges is not established pursuant to bargaining as provided for in Section 57031, the union may propose a scale of charges for approval by the director.

SEC. 4. Section 57037 is added to the Food and Agricultural Code,

to read:

57037. After receipt of the scale of charges proposed by the union pursuant to Section 57036, the director shall fix a time and place for a hearing on the matter. Notice of the hearing shall be published and mailed to each produce dealer in the Counties of Alameda and San Mateo and in the City and County of San Francisco and to the union. The director shall also notify any or all haulers and producers of any farm product which is delivered to the market.

SEC. 5. Section 57038 is added to the Food and Agricultural Code, to read:

57038. (a) At the hearing the director shall consider any relevant matters that may be presented.

(b) At or after the conclusion of the hearing, the director shall determine whether or not the proposed scale is reasonable. If the director determines that the proposed scale is reasonable, the director shall approve it and thereafter that scale of charges shall be the standard charge for unloading any farm product in the market. If the director determines that the scale is unreasonable, the director shall adjust the scale or any item of the scale so that the scale is not unreasonably higher than the prevailing rate for similar work which is performed under similar conditions. After this adjustment, the scale shall be the standard charge for unloading any farm product in the market.

(c) In making the determination and, if necessary, the adjustment required in subdivision (b), the director shall compare the scale proposed by the union with any available information relating to the charges for similar work which is performed under similar conditions in the city in, or for, which the market is operated. The director may take into consideration any rates set by the Public Utilities Commission for the performance of work of a similar nature.

SEC. 6. Section 57039 is added to the Food and Agricultural Code, to read:

57039. The director may by regulation establish a fee in the amount necessary to cover the costs that are incurred by the Department of Industrial Relations in implementing this article. Each party participating in a hearing conducted pursuant to this article shall pay an equal share of the fee.

SEC. 7. Article 7 (commencing with Section 57051) of Chapter 8.5 of Division 20 of the Food and Agricultural Code is repealed.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 425

An act to amend Sections 204.7 and 238 of the Code of Civil Procedure, relating to jurors.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 204.7 of the Code of Civil Procedure is amended to read:

204.7. (a) Source lists of jurors shall identify persons who reside in the county, and who are 18 years of age or older, shall include those who are registered voters, and to the extent that systems for producing jury lists can be practically modified, without significant cost, shall also include those whose names appear on a list of licensed drivers or identification cardholders provided by the Department of Motor Vehicles pursuant to subdivision (b). Qualified jury lists and master jury lists derived from the source lists shall be prepared so as to reasonably minimize duplication of names.

(b) Upon written request by the jury commissioner of a county, the Director of Motor Vehicles shall furnish the current source list of the names and addresses of persons residing in the county who are age 18 years or older and are holders of a current driver's license or identification card issued pursuant to Article 3 (commencing with Section 12800) and Article 5 (commencing with Section 13000) of Chapter 1 of Division 6 of the Vehicle Code. The conditions under which such lists shall be compiled semiannually shall be determined by the director. This service shall be provided by the Department of Motor Vehicles pursuant to Section 1812 of the Vehicle Code. The jury commissioner shall not disclose the information furnished by the Department of Motor Vehicles pursuant to this section to any person, organization, or agency for any use other than the selection of trial jurors.

SEC. 2. Section 238 of the Code of Civil Procedure is amended to read:

238. Any trial juror summoned, who willfully and without reasonable excuse fails to attend, may be attached and compelled to attend; and the court may also impose a fine not exceeding two hundred fifty dollars ($250), upon which execution may issue. If the trial juror was not personally served, the fine shall not be imposed until upon an order to show cause an opportunity has been offered the trial juror to be heard.

CHAPTER 426

An act to amend Section 22205.5 of the Education Code, and to add Section 12419.8 to the Government Code, relating to public funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 27, 1983]

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

SECTION 1. Section 22205.5 of the Education Code is amended to read:

22205.5. (a) In no event shall the board, on or after July 1, 1983, employ through interagency agreement any investment personnel who would also serve during the term of the agreement as investment staff to the Board of Administration of the Public Employees' Retirement System.

(b) The board shall provide the Chairmen of the Assembly and Senate Rules Committees, and the Minority Floor Leader of each house with copies of all of the following written materials:

(1) On or before August 15, 1983, a report which describes the temporary or interim plan and manner in which the board has implemented the transition from investment by the personnel of the Public Employees' Retirement System, including, but not limited to, the transition costs and the investment unit organization, including both internal and outside investment managers, advisors, and necessary support personnel.

(2) On or before September 15, 1983, a comprehensive plan showing the intended organization, staff organization control and coordinating mechanisms of the planned investment management system, and an implementation schedule of the plan showing key action dates.

(3) On or before December 1, 1983, a final plan showing the organization, staffing, control and coordinating mechanisms, and budget of the system.

SEC. 2. Section 12419.8 is added to the Government Code, to read:

12419.8. The Controller may, in his or her discretion, offset any amount due a county from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

The Controller shall deduct and retain from any amount offset in favor of a county an amount sufficient to reimburse the Controller

and the Franchise Tax Board for their administrative costs of processing the offset payment.

The provisions of this section shall apply only where amounts have been reduced to judgment or are contained in an order of a court.

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:

This act addresses critical and pressing financial problems with regard to public funds, both at the local and state levels, by (1) facilitating counties' collection of existing debts at the earliest possible time; and (2) by protecting against loss of state funds through investments made without sufficient time for analysis, which results in a lesser yield on the public fund investment portfolio.

It is therefore necessary that this act take effect immediately.

CHAPTER 427

An act to amend Section 54782.6 of the Government Code, relating to local agency formation commissions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 27, 1983.]

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

SECTION 1. Section 54782.6 of the Government Code is amended to read:

54782.6. (a) The commission of any county shall be enlarged to seven members if, pursuant to Article 4 (commencing with Section 54850), the commission of any county (1) orders representation of special districts upon the commission and (2) adopts rules and regulations affecting the functions and services of special districts. In addition to the commission members selected pursuant to Sections 54780, 54781, and 54782, two commission members shall be selected by an independent special district selection committee to represent special districts in the county.

(b) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district will be unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Such districts shall include districts located wholly within the county and those containing territory within the county representing 50

percent or more of the assessed value of taxable property of such district, as shown on the last equalized county assessment roll or rolls. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer and members representing a majority of the eligible districts shall constitute a quorum.

(c) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held (1) whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission or (2) upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(d) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is infeasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date in which the executive officer mailed the ballots to the districts. Any ballot received by the executive officer after the specified date shall not be valid. The executive officer shall announce the results of the election within 7 days of the specified date.

(e) The selection committee shall appoint two regular members and one alternate member to the commission; the members so appointed shall be elected or appointed special district officers residing within the county. However, the members so appointed shall not be members of the governing body of a city or county. If one of the regular district members is absent from a commission meeting, disqualifies himself or herself from participating in a meeting or is automatically disqualified from participating therein, the alternate district member is authorized to serve and vote in his or her place for that meeting. When the commission is considering any proposal affecting the district for which the regular member is a special district officer, such member is automatically disqualified from participating in proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in his or her place upon such proposal.

(f) If the office of a regular district member becomes vacant, the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular district member

to fill the vacancy.

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:

Local conditions frequently prevent special district selection committees from meeting to appoint members to local agency formation commissions. In order to allow district selection committees to fill existing and future vacancies without undue delay, this act must take effect immediately.

CHAPTER 428

An act to amend Section 36101 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 36101 of the Vehicle Code is amended to read:

36101. The following farm vehicles are exempt from registration, if they have and display an identification plate as specified in Section 36125, and the vehicles shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) A motor vehicle of a size so as to require a permit under Section 35780 owned and operated by a farmer, designed and used exclusively for carrying or returning empty from carrying feed and seed products of farming, and used on a highway between one part of a farm to another part thereof or from one farm to another farm.

(b) A vehicle equipped with a water tank owned by a farmer and used exclusively to service his or her own implements of husbandry.

(c) A water tank truck which is used exclusively for sprinkling water on dirt roads providing access to agricultural fields and which is only incidentally operated or moved on a highway.

(d) A cotton module mover, as defined in Section 35400.5.

(e) A trailer which is equipped with a plenum chamber for the drying of agricultural commodities.

CHAPTER 429

An act to amend Section 411.30 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 411.30 of the Code of Civil Procedure is amended to read:

411.30. (a) In any action for damages arising out of the professional negligence of a person holding a valid physician's and surgeon's certificate issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or of a person holding a valid dentist's license issued pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, or of a person holding a valid podiatrist's certificate issued pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code, or of a person licensed pursuant to the Chiropractic Act, on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified in subdivision (b).

(b) A certificate shall be executed by the attorney for the plaintiff declaring one of the following:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one physician and surgeon, dentist, podiatrist, or chiropractor who is licensed to practice and practices in this state or any other state or teaches at an accredited college or university and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action.

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations, including the provisions of Section 581a, would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after service of the complaint.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate physicians and surgeons, dentists, podiatrists, or chiropractors to obtain such consultation and none of those contacted would agree to such a consultation.

(c) Where a certificate is required pursuant to this section, only one such certificate shall be filed notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.

(d) Where the attorney intends to rely solely on the doctrine of "res ipsa loquitur", as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a medical procedure or both, and for that reason is not filing a certificate required by this section.

(e) If a request by the plaintiff for the defendant's records has been made pursuant to Section 1158 of the Evidence Code, and if the defendant has failed to produce such records within the time limits specified by that section, the time for filing the certificate of merit shall be extended for the period by which the time for furnishing records set forth in Section 1158 of the Evidence Code is exceeded by the defendant to a maximum of 60 days after which the requirement for the certificate is voided.

(f) For purposes of this section, and subject to Evidence Code Section 912, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the physician or surgeon, dentist, podiatrist, or chiropractor consulted and the contents of such consultation. Such privilege shall also be held by the physician or surgeon, dentist, podiatrist, or chiropractor so consulted, provided when the attorney makes a claim under paragraph (3) of subdivision (b) that he was unable to obtain the required consultation with the physician and surgeon, dentist, podiatrist, or chiropractor, the court may require the attorney to divulge the names of physicians and surgeons, dentists, podiatrists, or chiropractors refusing such consultation.

(g) A violation of the provisions of this section may constitute unprofessional conduct and be grounds for discipline against the attorney.

(h) The failure to file a certificate required by this section shall be grounds for a demurrer pursuant to Section 430.10.

(i) The provisions of this section shall not be applicable to a plaintiff who is not represented by an attorney.

(j) This section shall remain in effect until January 1, 1987, and on that date is repealed unless a later enacted statute deletes or extends that date.

CHAPTER 430

An act to amend Sections 13371 and 13374 of the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to permit municipal utility districts with a population of 250,000 or more to increase the amount of short-term debt which these districts can incur, thereby increasing the flexibility of these districts to respond to changes in bond market conditions, and thereby enabling them to reduce borrowing costs.

SEC. 2. Section 13371 of the Public Utilities Code is amended to read:

13371. A district may borrow money and incur indebtedness for the purposes of this chapter by the issuance of bonds, notes or other evidences of indebtedness by a majority vote of its board of directors and without the necessity of calling and holding an election in the district. Such evidences of indebtedness shall constitute general obligations of the district or shall be payable solely from the revenues of the district as the board may determine in the resolution authorizing their issuance; provided, that if the board determines that the evidences of indebtedness shall constitute general obligations of the district, their issuance shall be approved by a four-fifths vote of the board. Such indebtedness may be incurred for any of the following purposes:

(a) The purchase, processing, storage, and disposal of fuel to be used for the generation and transmission of electricity, of materials to be used in the manufacture of such fuel, and of the products of such fuel, the purchase of real property and manufacturing and processing facilities from which such fuel or materials may be obtained, or interests therein.

(b) The planning, design, engineering, and licensing of facilities for the generation or transmission of electricity, and the preparation of sites and the purchase of equipment for such facilities.

(c) The planning, design, engineering, acquisition, or construction of facilities for the storage, transmission, or distribution of water.

(d) The planning, design, engineering, acquisition, or construction of facilities for the storage, transmission, or treatment of sewage or byproducts of sewage treatment.

(e) The replacement of works of the district that have been damaged or demolished by reason of fire, flood, earthquake, sabotage, or acts of God or the public enemy.

(f) Any expenses or charges incurred in connecton with the

foregoing purposes, and to reimburse the district for expenditures incurred for any of such purposes.

The indebtedness incurred under this chapter shall be evidenced by bonds, notes or other evidences of indebtedness maturing in not to exceed seven years from their date, shall not result in interest costs exceeding such limits as may be fixed by the board, and may be sold either by public or by private sale. All other terms and conditions of such evidences of indebtedness shall be fixed by the board. The district may arrange for bank credit for the purposes of this section or to provide an additional source of repayment for indebtedness incurred under this chapter. The maximum principal amount of all indebtedness outstanding under this article, including the amounts drawn on available bank lines of credit, shall not at any one time exceed the lesser of either (1) the annual average of the total revenue for the three preceding years or (2) 25 percent of the district's total outstanding bonds issued pursuant to Chapter 6 (commencing with Section 12701), Chapter 7 (commencing with Section 13201), and Chapter 8 (commencing with Section 13451).

The authority contained in this chapter shall be in addition to the authority contained in Chapter 6 (commencing with Section 12701), Chapter 7 (commencing with Section 13201), and Chapter 8 (commencing with Section 13451), and any indebtedness incurred pursuant to this chapter shall not be included in ascertaining the aggregate indebtedness permitted by Section 12842.

SEC. 3. Section 13374 of the Public Utilities Code is amended to read:

13374. This chapter applies only to districts which have owned and operated an electric distribution system or electric generating facilities or a water distribution or sewage disposal system for at least eight years and which contain a population of 250,000 or more.

CHAPTER 431

An act to amend Section 8724 of, to add Section 8608 to, and to repeal and add Section 8665 to, the Fish and Game Code, relating to fish and game.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 8608 is added to the Fish and Game Code, to read:

8608. Notwithstanding Sections 8660, 8665, 8724, and 8780, the commission may, after a public hearing, when it determines that it is in the best interests of the state's marine resources and fisheries, adopt regulations, authorizing the use of nets not less than 75 feet

from any private pier, wharf, jetty, breakwater, or dock, and restricting the use of the nets within 750 feet of any public pier. However, nothing in this section authorizes the commission to adopt regulations which would extend beyond the maximum of 750 feet the area in which the use of nets is prohibited, as specified in Sections 8660, 8665, 8724, and 8780, or which would prohibit the use of any nets within 75 feet of any private pier, wharf, jetty, breakwater, or dock if that use of the net is permitted by law.

SEC. 2. Section 8665 of the Fish and Game Code is repealed.

SEC. 3. Section 8665 is added to the Fish and Game Code, to read:

8665. In District 118.5, nets may not be used within 750 feet of any pier or dock, except for bait nets described in Section 8780 used to capture live bait.

SEC. 4. Section 8724 of the Fish and Game Code is amended to read:

8724. Except as otherwise provided, in Districts 10, 17, 18, and 19, drift and set trammel nets may be used if the meshes are at least eight inches in length, except that these nets may not be used in District 18 within 750 feet of any pier or jetty, nor may they be used for the taking of salmon.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 432

An act to amend Section 19140.5 of the Government Code, relating to state civil service.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 19140.5 of the Government Code is amended to read:

19140.5. This section applies only to a permanent employee, or an employee who previously had permanent status and who, since receiving permanent status, has had no break in the continuity of state service due to a permanent separation.

An employee who is (a) terminated from a temporary or limited-term appointment by either the employee or the appointing power; or (b) rejected during probation; or (c) demoted from a

managerial position pursuant to Section 19590; shall be reinstated to his or her former position provided all of the following conditions occur:

(1) The employee accepted the appointment without a break in the continuity of state service.

(2) The reinstatement is requested in the manner provided by board rule within 10 working days after the effective date of the termination.

CHAPTER 433

An act to amend Section 31580.2 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 31580.2 of the Government Code is amended to read:

31580.2. In counties where the board of retirement and board of investment have appointed personnel pursuant to Section 31522.1, the respective boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year shall not exceed eighteen-hundredths of 1 percent of the total assets of the retirement system. However, in any county of the first class as established in Section 28022, until January 1, 1990, the expense incurred in that county in any intervening year shall not exceed eighteen-hundredths of 1 percent of the total assets of the retirement system provided, that any expense incurred in that county in any such intervening year which exceeds fifteen-hundredths of 1 percent shall be restricted to capital improvements and related services necessary to modernize and improve the system administration and, on and after January 1, 1990, the expense incurred in any county of the first class as established in Section 28022 in any year shall not exceed fifteen-hundredths of 1 percent of the total assets of the retirement system.

CHAPTER 434

An act to amend Sections 11357 and 11361.5 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 11357 of the Health and Safety Code is amended to read:

11357. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, or shall be punished by imprisonment in the state prison.

(b) Except as authorized by law, every person who possesses not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). Notwithstanding other provisions of law, if such person has been previously convicted three or more times of an offense described in this subdivision during the two-year period immediately preceding the date of commission of the violation to be charged, the previous convictions shall also be charged in the accusatory pleading and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, the provisions of Sections 1000.1 and 1000.2 of the Penal Code shall be applicable to him, and the court shall divert and refer him for education, treatment, or rehabilitation, without a court hearing or determination or the concurrence of the district attorney, to an appropriate community program which will accept him. If the person is so diverted and referred he shall not be subject to the fine specified in this subdivision. If no community program will accept him, the person shall be subject to the fine specified in this subdivision. In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) Except as authorized by law, every person who possesses more than one avoirdupois ounce of marijuana, other than concentrated cannabis, shall be punished by imprisonment in the county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(d) Except as authorized by law, every person 18 years of age or over who possesses not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for a period of not more than 10 days, or both.

(e) Except as authorized by law, every person under the age of 18 who possesses not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars ($500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

SEC. 1.5. Section 11357 of the Health and Safety Code is amended to read:

11357. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, or shall be punished by imprisonment in the state prison.

(b) Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). Notwithstanding other provisions of law, if such person has been previously convicted three or more times of an offense described in this subdivision during the two-year period immediately preceding the date of commission of the violation to be charged, the previous convictions shall also be charged in the accusatory pleading and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, the provisions of Sections 1000.1 and 1000.2 of the Penal Code shall be applicable to him, and the court shall divert and refer him for education, treatment, or rehabilitation, without a court hearing or determination or the concurrence of the district attorney, to an appropriate community program which will accept him. If the person is so diverted and referred he shall not be subject to the fine specified in this subdivision. If no community program will accept him, the person shall be subject to the fine specified in this subdivision. In any case in which a person is arrested for a violation

of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) Except as authorized by law, every person who possesses more than 28.5 grams of marijuana, other than concentrated cannabis, shall be punished by imprisonment in the county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(d) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for a period of not more than 10 days, or both.

(e) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars ($500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

SEC. 2. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency or local public agency pertaining to the arrest or conviction of any person for a violation of subdivision (b), (c), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction. Any court or agency having custody of the records shall provide for the timely destruction of the records in accordance with subdivision (c). The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976,

for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form shall be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application. Each state or local agency receiving a notice from the Department of Justice shall destroy records of the agency, if any, pertaining to the arrest or conviction specified in the notice, in the manner prescribed by subdivision (c). The application form and the notices from the department to the agencies specified in this subdivision shall be destroyed by the department or agency, as the case may be, at the time the other records of the arrest or conviction are destroyed.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

(e) Costs incurred by local agencies in complying with the provisions of subdivision (c) shall be reimbursed as provided in Section 2231 of the Revenue and Taxation Code.

SEC. 3. The amendments to Section 11357 of the Health and Safety Code made by Section 1 of this act shall become operative on September 1, 1983.

SEC. 4. Immediately after the effective date of this act, the Superintendent of Public Instruction shall request each school district to inform its pupils, prior to September 1, 1983, of the provisions of Section 1 of this act.

SEC. 4.5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 1242 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 11357 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 1242, that Section 11357 of the Health and Safety Code, as amended by Section 1 of this bill, be further amended on the effective date of Assembly Bill 1242 in the form set forth in Section 1.5 of this act to incorporate the changes in Section 11357 of the Health and Safety Code proposed by Assembly Bill 1242. Therefore, if this bill and Assembly Bill 1242 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 1242 is chaptered before this bill and amends Section 11357 of the Health and Safety Code, Section 1 of this act shall become operative on the effective date of this act and Section 1.5 of this act shall become operative on the effective date of Assembly Bill 1242.

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:

In order to make clarifying changes in provisions of law that will become operative on September 1, 1983, it is necessary that this act take effect immediately.

CHAPTER 435

An act to amend Section 13507 of the Penal Code, relating to training.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. 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.

(f) A school district.

(g) A transit district.

CHAPTER 436

An act to amend Section 22435.2 of, and to add Section 22435.5 to, the Business and Professions Code, relating to shopping and laundry carts.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 22435.2 of the Business and Professions Code is amended to read:

22435.2. It is unlawful to do any of the following acts, if a shopping cart or laundry cart has a permanently affixed sign as provided in Section 22435.1:

(a) To remove a shopping cart or laundry cart from the premises or parking area of a retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(b) To be in possession of any shopping cart or laundry cart that has been removed from the premises or the parking area of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(c) To be in possession of any shopping cart or laundry cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(d) To leave or abandon a shopping cart or laundry cart at a location other than the premises or parking area of the retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(e) To alter, convert, or tamper with a shopping cart or laundry cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(f) To be in possession of any shopping cart or laundry cart while that cart is not located on the premises or parking lot of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

SEC. 2. Section 22435.5 is added to the Business and Professions Code, to read:

22435.5. (a) In any civil proceeding. any shopping cart or laundry cart which has a sign affixed to it pursuant to Section 22435.1 shall establish a rebuttable presumption affecting the burden of

producing evidence that the property is that of the person or business named in the sign and not abandoned by the person or business named in the sign.

(b) In any criminal proceeding, it may be inferred that any shopping cart or laundry cart which has a sign affixed to it pursuant to Section 22435.1 is the property of the person or business named in the sign and has not been abandoned by the person or business named in the sign.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 437

An act to amend Sections 6704, 6730.1, 6736.1, 6740, 6763, 6787, and 6796.3 of the Business and Professions Code, relating to professional engineers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 6704 of the Business and Professions Code is amended to read:

6704. In order to safeguard life, health, property, and public welfare, only persons registered under the provisions of this chapter shall be entitled to take and use the titles "consulting engineer," "professional engineer," or "registered engineer," or any combination of those titles, and according to registration with the board the titles "civil engineer," "structural engineer," "soil engineer," "chemical engineer," "electrical engineer," "industrial engineer," "mechanical engineer," "metallurgical engineer," "petroleum engineer," "engineer-in-training" or the titles in such other branches as the board may establish. The provisions of this act pertaining to registration of professional engineers in the branches of chemical, electrical, industrial, mechanical, metallurgical, and petroleum engineering do not apply to employees in the communication industry; nor to the employees of contractors while engaged in work on communication equipment; however, those employees may not use the title unless registered. The provisions of this section shall not prevent the use of the title "consulting

engineer" by a person who has qualified for and maintained exemption for using that title under the provisions of Section 6732.1, or by a person licensed as a photogrammetric surveyor under the provisions of Chapter 15 (commencing with Section 8700) of Division 3 regardless of whether or not he or she has received commissions from clients and fees for services rendered.

SEC. 2. Section 6730.1 of the Business and Professions Code is amended to read:

6730.1. On or before June 30, 1984, the State Board of Registration for Professional Engineers shall review all existing engineering disciplines and submit a report to the Legislature on its findings. The board shall make recommendations to the Legislature regarding practice regulation changes and the termination, modification, or conversion to practice registration of any existing title disciplines.

SEC. 3. Section 6736.1 of the Business and Professions Code is amended to read:

6736.1. On or after July 1, 1984, no person shall use the title, "soil engineer," unless he or she is a registered civil engineer in this state and he or she has been found qualified as a soil engineer according to the rules and regulations established therefor by the board. Any registered civil engineer using the title "soil engineer" on or before July 1, 1984, may, for a period of two years continue to use the title "soil engineer." Thereafter, no registered civil engineer who was practicing on or before July 1, 1984, may use the title "soil engineer" unless he or she files an application to use the title on or before July 1, 1986. Any registered civil engineer who furnishes satisfactory evidence of adequate experience and other qualifications in soil engineering as determined by the board, indicating that he or she is a competent soil engineer, shall be entitled to use the title "soil engineer" without an examination.

SEC.4. Section 6740 of the Business and Professions Code is amended to read:

6740. A subordinate to a civil, electrical or mechanical engineer registered under this chapter, or a subordinate to a civil, electrical or mechanical engineer exempted from registration under this chapter, insofar as he acts solely in such capacity, is exempt from registration under the provisions of this chapter. This exemption, however, does not permit any such subordinate to practice civil, electrical or mechanical engineering in his own right or to use the title, "civil engineer" or "structural engineer" or "electrical engineer" or "mechanical engineer" or "soil engineer."

SEC. 5. Section 6763 of the Business and Professions Code is amended to read:

6763. Application for authority to use the title "structural engineer," or the title "soil engineer" shall be made to the board on forms prescribed by it and shall be accompanied by the application fee fixed by this chapter.

An applicant for authority to use the title "structural engineer," or the title "soil engineer" on and after July 1, 1984, who has passed the

examination prescribed by the board, or an applicant for authority to use the title "soil engineer" whose application is submitted prior to July 1, 1984, and who has otherwise demonstrated that he or she is qualified, shall have a certificate of authority issued to him or her.

For purposes of this chapter, an authority to use the title "structural engineer," or the title "soil engineer" is an identification of competence and specialization in a subspecialty of civil engineering and necessitates education or experience, in both in addition to that required for registration as a civil engineer.

SEC. 6. Section 6787 of the Business and Professions Code is amended to read:

6787. Every person is guilty of a misdemeanor and for each offense of which he is convicted is punishable by a fine of not more than five hundred dollars ($500) or by imprisonment not to exceed three months, or by both fine and imprisonment:

(a) Who, unless he is exempt from registration under this chapter, practices or offers to practice civil, electrical or mechanical engineering in this state according to the provisions of this chapter without legal authorization.

(b) Who presents or attempts to file as his own the certificate of registration of another.

(c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration.

(d) Who impersonates or uses the seal of any other practitioner.

(e) Who uses an expired or revoked certificate of registration.

(f) Who shall represent himself as, or use the title of, registered civil, electrical or mechanical engineer, or any other title whereby such person could be considered as practicing or offering to practice civil, electrical or mechanical engineering in any of its branches, unless he is correspondingly qualified by registration as a civil, electrical or mechanical engineer under this chapter.

(g) Who, unless appropriately registered, manages, or conducts as manager, proprietor, or agent, any place of business from which civil, electrical or mechanical engineering work is solicited, performed or practiced.

(h) Who uses the title, or any combination of such title, of "professional engineer," "registered engineer," "chemical engineer," "civil engineer," "electrical engineer," "industrial engineer," "mechanical engineer," "metallurgical engineer," "petroleum engineer," "structural engineer," "soil engineer," or "engineer-in-training," or the titles in such other branches as the board may establish, or who makes use of any abbreviation of such title which might lead to the belief that he is a registered engineer, without being registered as required by this act.

(i) Who uses the title "consulting engineer" without being registered as required by this act or without being authorized to use such title pursuant to legislation enacted at the 1963, 1965 or 1968 Regular Session.

(j) Who violates any provision of this chapter.

SEC. 7. Section 6796.3 of the Business and Professions Code is amended to read:

6796.3. Certificates of registration as a professional engineer, and certificates of authority to use the title "structural engineer," "soil engineer," or "consulting engineer" which are not renewed within five years after expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of such certificate may apply for and obtain a new certificate, however, if:

(a) He has not committed any acts or crimes constituting grounds for denial of registration or of a certificate under Section 480.

(b) He takes and passes the examination, if any, which would be required of him if he were then applying for the certificate for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to practice the branch of engineering in which he again seeks to be certified, and

(c) He pays all of the fees that would be required of him if he were then applying for the certificate for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to the provisions of this section.

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:

In order to enable the State Board of Registration for Professional Engineers to submit a report to the Legislature on its findings for all existing engineer title disciplines on or before June 30, 1984, it is necessary that this act take immediate effect.

CHAPTER 438

An act to amend Section 7014 of the Civil Code, relating to records.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 7014 of the Civil Code is amended to read:

7014. (a) Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this part may be held in closed court without admittance of any person other than those necessary to the action or proceeding. Except as provided in subdivision (b), all papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in any public agency

or elsewhere, are subject to inspection only in exceptional cases upon an order of the court for good cause shown.

(b) All papers and records pertaining to the action or proceeding that are part of the permanent record of the court are subject to inspection by the parties to the action and their attorneys.

CHAPTER 439

An act to amend Section 15862 of, and to repeal and add Sections 15862.5 and 15863 to, the Government Code, and to amend Sections 5002.2, 5010, 5069, 5069.1, 5069.2, 5069.3, 5080.17, and 5080.20 of, to add Section 5006.15 to, to repeal and add Section 5002.4 to, to repeal Section 5080.01 of, and to repeal Article 1.5 (commencing with Section 5019.10) of Chapter 1 of Division 5 of, the Public Resources Code, relating to parks and recreation.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 15862 of the Government Code is amended to read:

15862. When real property is acquired by the state pursuant to this part, jurisdiction over the property shall remain in the Department of General Services until the property is needed for the purpose for which it was acquired. The Director of General Services may transfer jurisdiction of the property to the agency for whose use it was acquired before it is needed for the purpose for which acquired if in his opinion the transfer is in the best interests of the state. The department may lease all or any portion of the property which is not presently needed on terms and conditions as the director may fix and may maintain, improve, and care for the property in order to secure rent therefrom. The department may remove or demolish buildings or other structures on the property when it is desirable to do so. It may sell or dispose of the improvements or any materials available upon the demolishing of any building or structure on the property.

SEC. 2. Section 15862.5 of the Government Code is repealed.

SEC. 3. Section 15862.5 is added to the Government Code, to read:

15862.5. (a) Notwithstanding Section 15862, all real property acquired pursuant to this part for state park purposes prior to April 1, 1984, and during the 12 months prior to April 1 of each year thereafter, shall be transferred to the jurisdiction of the Department of Parks and Recreation on or before the effective date of the Budget Act next enacted after April 1.

(b) The Department of Parks and Recreation shall obtain

jurisdiction subject to any existing lease or rental agreement concerning any real property transferred pursuant to subdivision (a) but shall seek to make the real property accessible and usable by the general public at the earliest opportunity. No transfer under this section shall affect the responsibilities under Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, which shall be performed by the Department of General Services. Consistent with the sound management and conservation of resources on real property acquired for state park purposes, the Director of Parks and Recreation may enter into an interagency agreement with the Department of General Services for property management services for any real property acquired for state park purposes.

(c) All rents and other returns received by the Department of Parks and Recreation from real property subject to this section shall be deposited as provided in Section 5010 of the Public Resources Code.

(d) The Department of Parks and Recreation shall request funds sufficient to meet its costs of property management and its costs of operation and maintenance of all real property subject to this section in its annual budget request submitted to the Legislature.

(e) With respect to the budget for the 1984–85 fiscal year, this section applies to all properties under the jurisdiction of the Department of General Services, regardless of the date each of those properties was originally acquired for state park purposes.

(f) As used in this section, "acquired" means the acquisition of any interest in real property.

SEC. 4. Section 15863 of the Government Code is repealed.

SEC. 5. Section 15863 is added to the Government Code, to read:

15863. (a) The proceeds of any sale made pursuant to Section 15862 shall be deposited in the General Fund.

(b) All rents received by the Department of General Services pursuant to Section 15862 shall be deposited in the General Fund.

(c) All money deposited in the General Fund pursuant to this section shall be available for appropriation to the Department of General Services for the care, maintenance, and improvement of the real property acquired pursuant to this part that is under the jurisdiction of, or being administered by, the Department of General Services and for any payments required to be made pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

SEC. 6. Section 5002.2 of the Public Resources Code is amended to read:

5002.2. (a) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, as the case may be, for the unit.

The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the

unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit.

The general plan constitutes a report on a project for the purposes of Section 21100. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.

(c) Notwithstanding the requirements of subdivision (a), the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan, as the case may be, if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, so long as such construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination thereof at a single unit. Any such development shall be subject to the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(d) Any general plan approved prior to July 1, 1972, may be used as the basis for development if the director finds that there has been no significant change in the resources of the unit since approval of the plan and that the plan is compatible with current policies governing development of the unit and the classification of the unit.

(e) Consistent with good planning and sound resource management, the department shall, in discharging its responsibilities under this section, attempt to make units of the state park system accessible and usable by the general public at the earliest opportunity.

SEC. 7. Section 5002.4 of the Public Resources Code is repealed.

SEC. 8. Section 5002.4 is added to the Public Resources Code, to read:

5002.4. The department shall furnish a copy of the general plan for any unit of the state park system for which a plan has been prepared to any Member of the Legislature, upon request.

SEC. 9. Section 5006.15 is added to the Public Resources Code, to read:

5006.15. The proceeds of any sale made on behalf of the department pursuant to Section 11011 of the Government Code of any real property originally acquired for state park purposes, regardless of whether that real property is under the jurisdiction of the department, shall be deposited in the fund which was the original source for the acquisition of the property. If the fund of origin is not in existence, the proceeds shall be deposited in the unappropriated surplus of the General Fund.

SEC. 10. Section 5010 of the Public Resources Code is amended to read:

5010. (a) The department, whenever in its judgment it is practicable to do so, shall collect fees, rents, and other returns for the use of any state park system area, the amounts to be determined by the department.

(b) All revenues received by the department during each fiscal year shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund, which is hereby created.

(c) Notwithstanding subdivision (b), all revenues received by the department from the state vehicular recreation area and trail system shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund, as required by Section 38225 of the Vehicle Code.

(d) All revenues received by the department for the entry or launching of boats shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund.

(e) On July 1, 1980, all existing balances, including unappropriated balances and encumbered and unencumbered balances, of the following funds and accounts shall be transferred to the State Parks and Recreation Fund:

(1) Park and Recreation Revolving Account (Section 5098, Public Resources Code, as added by Chapter 1222, Statutes of 1972).

(2) The Resources Protection Account (Section 8600, Public Resources Code, as added by Chapter 1052, Statutes of 1969).

(3) Collier Park Preservation Fund (Section 5010, Public Resources Code, as added by Chapter 1502, Statutes of 1974).

(4) San Francisco Maritime State Historic Park Account (Section 2, Chapter 1764, Statutes of 1971).

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107.7, Streets and Highways Code, as added by Chapter 1032, Statutes of 1973).

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000).

(7) Hostel Facilities Use Fees Account (Section 2, Chapter 265, Statutes of 1974).

(8) All funds, other than expended funds, previously appropriated to the department from the Bagley Conservation Fund.

(f) On and after July 1, 1980, all funds, other than those specified in subdivisions (g) and (h), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and

resource and property management and protection, when appropriated by the Legislature.

(g) All funds in the State Parks and Recreation Fund which had previously been appropriated and have become encumbered, may be used, without further appropriation, for liquidation of those encumbrances, upon the same terms and conditions as made by those previous appropriations.

(h) The balance of any unencumbered funds in the State Park Highway Account in the Bagley Conservation Fund shall be transferred to the State Parks and Recreation Fund and shall be available for expenditure as provided in subdivisions (b) and (c) of Section 2107.7 of the Streets and Highways Code.

SEC. 10.5. Section 5010 of the Public Resources Code is amended to read:

5010. (a) The department, whenever in its judgment it is practicable to do so, shall collect fees, rents, and other returns for the use of any state park system area, the amounts to be determined by the department.

(b) All revenues received by the department during each fiscal year shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund, which is hereby created.

(c) Notwithstanding subdivision (b), all revenues received by the department from the state vehicular recreation area and trail system shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund, as required by Section 38225 of the Vehicle Code.

(d) All revenues received by the department for the entry or launching of boats shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund and shall be used for boating safety, enforcement, operation, and maintenance programs of the department.

(e) On July 1, 1980, all existing balances, including unappropriated balances and encumbered and unencumbered balances, of the following funds and accounts shall be transferred to the State Parks and Recreation Fund:

(1) Park and Recreation Revolving Account (Section 5098, Public Resources Code, as added by Chapter 1222, Statutes of 1972).

(2) The Resources Protection Account (Section 8600, Public Resources Code, as added by Chapter 1052, Statutes of 1969).

(3) Collier Park Preservation Fund (Section 5010, Public Resources Code, as added by Chapter 1502, Statutes of 1974).

(4) San Francisco Maritime State Historic Park Account (Section 2, Chapter 1764, Statutes of 1971).

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107.7, Streets and Highways Code, as added by Chapter 1032, Statutes of 1973).

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000).

(7) Hostel Facilities Use Fees Account (Section 2, Chapter 265, Statutes of 1974).

(8) All funds, other than expended funds, previously appropriated to the department from the Bagley Conservation Fund.

(f) On and after July 1, 1980, all funds, other than those specified in subdivisions (g) and (h), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

(g) All funds in the State Parks and Recreation Fund which had previously been appropriated and have become encumbered, may be used, without further appropriation, for liquidation of those encumbrances, upon the same terms and conditions as made by those previous appropriations.

(h) The balance of any unencumbered funds in the State Park Highway Account in the Bagley Conservation Fund shall be transferred to the State Parks and Recreation Fund and shall be available for expenditure as provided in subdivisions (b) and (c) of Section 2107.7 of the Streets and Highways Code.

SEC. 11. Article 1.5 (commencing with Section 5019.10) of Chapter 1 of Division 5 of the Public Resources Code is repealed.

SEC. 12. Section 5069 of the Public Resources Code is amended to read:

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 and, in appropriate instances, is desirable for the enhancement of the use and enjoyment of units of the state park system.

SEC. 13. Section 5069.1 of the Public Resources Code is amended to read:

5069.1. Any portion of any parcel of real property acquired for state park system purposes, which was or had been farmed or grazed, or otherwise used for agricultural purposes, within the 24 months immediately preceding acquisition, may be made available for lease for agricultural purposes by the Department of General Services if the Director of Parks and Recreation finds that use of the real property for agricultural purposes would be compatible with the ultimate use of the real property as a unit, or part of a unit, of the state park system and with the sound management and conservation of resources within the unit.

SEC. 14. Section 5069.2 of the Public Resources Code is amended to read:

5069.2. Following approval of the general plan for a unit of the state park system pursuant to Section 5002.2, all real property which has been designated in the general plan for retention in agricultural use indefinitely as a feature of that unit shall be made available for leasing by the department for agricultural purposes. In addition, any 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, may continue to be available for leasing for agricultural purposes by the Department of General Services if the Director of Parks and Recreation finds such use would be compatible with the general plan or until the commencement of improvements thereon.

SEC. 15. Section 5069.3 of the Public Resources Code is amended to read:

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 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.

SEC. 16. Section 5080.01 of the Public Resources Code is repealed.

SEC. 17. Section 5080.17 of the Public Resources Code is amended to read:

5080.17. (a) Every contract awarded pursuant to the bidding requirements of this article or negotiated or renegotiated pursuant to Section 5080.16 shall be submitted to the Attorney General for approval for legal sufficiency and to the Director of General Services for approval pursuant to Section 11005.2 of the Government Code, the requirements of which are the only requirements applicable to the approval of contracts entered into pursuant to this article. The contract is not binding on the state until approved by the Attorney General and the Director of General Services.

(b) Notwithstanding Section 11005.2 of the Government Code and subdivision (a) of this section, the approval of a contract by the Director of General Services shall not be required unless the contract authorizes occupancy of a unit of the state park system for a period of more than one year.

SEC. 18. Section 5080.20 of the Public Resources Code is amended to read:

5080.20. No contract, including a contract entered into on lands operated pursuant to an agreement entered into under Article 2 (commencing with Section 5080.30), which is expected to involve a total investment or estimated annual gross sales in excess of one hundred thousand dollars ($100,000), may be advertised for bid, negotiated, renegotiated, or amended in any material respect unless and until all of the following requirements have been complied with:

(a) The commission has reviewed the proposed services, facilities, and location of the concession and determined that they meet the requirements of Sections 5001.9 and 5080.03 and are compatible with the classification of the unit in which the concession will be operated.

(b) The Legislature has reviewed and approved the proposed concession as part of the annual budget process or the requirements of subdivision (c) have been complied with. No proposed concession shall be submitted for review by the Legislature until the commission has made its determination pursuant to subdivision (a), unless deferring review by the Legislature would be adverse to the interests of the public, in which case the Legislature's review may precede the commission's.

(c) Following enactment of the Budget Bill, the board has determined that the proposed concession could not have been presented to the Legislature for review and approval in the course of its consideration of the Budget Bill and that it would be adverse to the interests of the public to defer that review and approval to a time when the Legislature next considers a Budget Bill. Upon making that determination, the board may review and approve the proposed concession after giving at least 20 days' written notice to the Chairman of the Joint Legislative Budget Committee and to the chairmen of the fiscal and appropriate policy committees of its intended action. All actions taken by the board pursuant to this subdivision shall be reported to the Legislature in the next Governor's Budget.

(d) The proposed concession is accompanied with documentation sufficient to enable the Legislature, the commission, and the board, as the case may be, to ascertain whether the concession will conform to the requirements of this article and, as to the Legislature and the board, to evaluate fully all terms on which the concession is proposed to be let, including the rent and other returns anticipated to be received.

SEC. 19. It is the intent of the Legislature, if this bill and Assembly Bill 1207 are both chaptered and become effective January 1, 1984, both bills amend Section 5010 of the Public Resources Code, and this bill is chaptered after Assembly Bill 1207, that the amendments to Section 5010 proposed by both bills be given effect and incorporated in Section 5010 in the form set forth in Section 10.5 of this act. Therefore, Section 10.5 of this act shall become operative only if this bill and Assembly Bill 1207 are both chaptered and become effective January 1, 1984, both amend Section 5010, and this bill is chaptered after Assembly Bill 1207, in which case Section 10 of this act shall not become operative.

CHAPTER 440

An act to amend Section 148.9 of the Penal Code, and to amend Section 2416 of the Vehicle Code, relating to law enforcement.

[Approved by Governor July 27, 1983 Filed with
Secretary of State July 28, 1983.]

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

SECTION 1. Section 148.9 of the Penal Code is amended to read:

148.9. Any person who falsely represents or identifies himself or herself as another person or as a fictitious person to a police officer, sheriff, deputy sheriff, marshal, deputy marshal, member of the California Highway Patrol, or member of the California State Police, upon a lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the investigating officer is guilty of a misdemeanor.

SEC. 2. 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, marshal, deputy marshal, 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) Any vehicle owned and operated by a public utility, used primarily to accomplish emergency repairs to utility facilities or used primarily by railroad policemen, who are commissioned by the Governor, in the performance of their duties.

(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. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 441

An act to amend Sections 69895, 69900, 74502, 74503, and 74504 of the Government Code, relating to courts.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 69895 of the Government Code is amended to read:

69895. In the City and County of San Francisco, the superior court shall appoint an executive officer who shall act as a secretary to the judges of the superior court and perform the duties of jury commissioner pursuant to Section 69893. The salary of the executive officer shall be a minimum salary of four thousand two hundred forty-one dollars ($4,241) monthly during his or her first year of service, four thousand four hundred fifty-four dollars ($4,454) monthly during his or her second year of service, four thousand six hundred sixty-nine dollars ($4,669) monthly during his or her third year of service, and four thousand eight hundred eighty-two dollars ($4,882) monthly during his or her fourth year of service and thereafter.

In the city and county, on the authorization of the judges, the executive officer shall have an administrative assistant, who shall assist also in the performance of the duties of jury commissioner. The salary of this administrative assistant shall be a minimum of three thousand five hundred fifty-seven dollars ($3,557) monthly during his or her first year of service, three thousand seven hundred thirty-five dollars ($3,735) monthly during his or her second year of service, three thousand nine hundred fourteen dollars ($3,914) monthly during his or her third year of service, and four thousand ninety dollars ($4,090) monthly during his or her fourth year of service and thereafter.

The increment shall be paid commencing on the first day of the

month following the first, second, and third anniversary of the incumbent's appointment. All service included prior to the effective date of the amendment to this section enacted during the 1983–84 Regular Session of the Legislature shall constitute service for the purpose of determining entitlement to increments.

The court may delegate to the executive officer any administrative powers and duties as are now or hereafter by law may be vested in or required to be exercised by such court.

The salaries of the executive officer and administrative assistant shall be paid by the city and county.

SEC. 2. Section 69900 of the Government Code is amended to read:

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose monthly salaries shall be as set forth hereafter:

	Step 1	Step 2	Step 3	Step 4
Four judicial secretaries	$1,578	$1,640	$1,703	$1,764
Nine judicial clerks, senior	1,578	1,640	1,703	1,764
Four assistant court commissioners	3,133	3,290	3,444	3,605
One legal research assistant to presiding judge	1,767	1,853	1,939	2,024
Two court assistants	1,610	1,718	1,824	1,932
Eight judicial clerks	1,211	1,272	1,320	1,379
Two information clerks	1,383	1,442	1,500	1,559
One chief assistant to calendar clerk	1,968	2,081	2,192	2,303
One chief calendar clerk	2,388	2,554	2,717	2,879
One criminal jury coordinator	2,170	2,309	2,448	2,587
One director family court services	2,662	2,781	2,901	3,020
Five counselors family court services	2,372	2,467	2,562	2,661
One mental health coordinator	2,734	2,890	3,045	3,200
Two administrative assistants	3,077	3,244	3,400	3,557
Six court commissioners	3,839	4,123	4,321	4,519
One civil courts coordinator	2,734	2,890	3,045	3,200
One criminal courts coordinator	2,734	2,890	3,045	3,200
One pre-trial clerk and statistician	2,734	2,890	3,045	3,200
Five legal research assistants	1,717	1,803	1,889	1,974
Three court investigators	2,268	2,360	2,453	2,545
One secretary to executive officer	1,726	1,789	1,852	1,913

One calendar control clerk	1,304	1,368	1,430	1,490
One calendar control clerk, senior	1,430	1,499	1,567	1,653
Three probate examiners	2,268	2,360	2,453	2,545
One court assistant, senior	1,918	1,985	2,051	2,117
Twenty-eight court reporters	2,781	2,934	3,095	3,265

All figures in the above columns represent the salaries to be paid monthly to each of the employees so appointed. All original appointments shall be at step 1, provided that on the first of the month following the first anniversary of the employee's appointment he or she shall advance to the second step, and thereafter on the first of the month following the second anniversary of the employee's appointment he or she shall advance to step 3, and thereafter on the first of the month following the third anniversary of the employee's appointment he or she shall advance to step 4, and thereafter shall be paid at the rate established by step 4. Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1983–84 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is to be paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the county for miscellaneous employees.

With the approval of the board of supervisors the court may establish such additional titles and pay rates as are required and with the approval of the board of supervisors may appoint and employ such additional commissioners, officers and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Rates of compensation of all officers and assistants and other employees may be altered by joint action and approval of the board of supervisors and a majority of the judges of the court. Such appointments or changes in compensation made pursuant to this paragraph shall be on an interim basis and shall expire on January 1 of the second year following the date of the appointment or change in compensation unless ratified by the Legislature.

The salaries of such employees shall be paid by the city and county.

SEC. 3. Section 74502 of the Government Code is amended to read:

74502. (a) There shall be one clerk-executive officer who shall also serve as secretary to the judges and who shall be paid a salary of three thousand eight hundred thirty-four dollars ($3,834) monthly

during the first year of service, a salary of four thousand twenty-five dollars ($4,025) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of four thousand two hundred twenty-three dollars ($4,223) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum salary of four thousand five hundred seventy-seven dollars ($4,577) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one clerk-executive officer who shall also serve as secretary to the judges, and who shall hold office at their pleasure and who shall receive the salary provided in this section.

(b) Notwithstanding the provisions of Section 72400, the judges, or a majority of them, shall appoint two traffic referees who shall hold office at their pleasure. The traffic referees shall have the powers and duties specified in Sections 72401, 72402 and 72403 and shall be paid a salary equal to 50 percent of the salary of a judge of the municipal court during the first year of service; subject to approval of the judges, or a majority of them, a salary equal to 65 percent of the salary of a judge of the municipal court after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment; and subject to the approval of the judges, or a majority of them, a maximum salary equal to 75 percent of the salary of a judge of the municipal court after the second year of service, commencing on the first day of the month following the second anniversary of his or her appointment.

(c) There shall be one executive assistant to the presiding judge who shall be paid a salary of two thousand eight hundred seventy-two dollars ($2,872) monthly during the first year of service, a salary of three thousand eighteen dollars ($3,018) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand one hundred sixty-three dollars ($3,163) monthly after the second year of service, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one executive assistant to the presiding judge, who shall hold office at their pleasure and who shall receive the salary provided in this section. When the executive assistant to the presiding judge is a member of the state bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars ($400) monthly.

(d) There shall be one executive secretary to the presiding judge

who shall serve as executive secretary to the presiding judge who shall be paid the salary of one thousand eight hundred thirty-four dollars ($1,834) monthly during the first year of service, a salary of one thousand nine hundred twenty-six dollars ($1,926) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand twenty-nine dollars ($2,029) monthly after the second year of service, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, shall appoint one executive secretary to the presiding judge who shall hold office at their pleasure and who shall receive the salary as provided in this section.

(e) There shall be one small claims legal advisor who shall be paid a salary of two thousand six hundred three dollars ($2,603) monthly during the first year of service, a salary of two thousand seven hundred thirty dollars ($2,730) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of two thousand eight hundred sixty-three dollars ($2,863) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his or her appointment, a salary of three thousand three dollars ($3,003) monthly after the third year of service, commencing on the first day of the month following the third anniversary of his of her appointment, and a maximum salary of three thousand one hundred forty-eight dollars ($3,148) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one small claims legal advisor, who shall hold office at their pleasure and who shall receive the salary provided in this section.

SEC. 4. Section 74503 of the Government Code is amended to read:

74503. (a) There shall be two chief deputies, each of whom shall also serve as jury commissioner and each of whom shall exercise the powers of jury commissioner of superior courts insofar as they are applicable to the municipal court and each of whom shall perform such other duties as assigned by the judges of the court and each of whom shall be paid a minimum salary of three thousand four hundred ninety dollars ($3,490) monthly during the first year of service, a salary of three thousand six hundred thirty-six dollars ($3,636) monthly after the first year of service, commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of three thousand seven hundred ninety-three dollars ($3,793) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding

any other provisions of this code, shall appoint a chief deputy, who shall also serve as jury commissioner and who shall hold office at their pleasure, and who shall perform such other duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(b) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, two deputy clerks who shall be the court systems coordinators and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand seven hundred forty-seven dollars ($2,747) monthly during the first year of service, a salary of two thousand eight hundred seventy-three dollars ($2,873) monthly after the first year of service commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of three thousand five dollars ($3,005) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk who shall be court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(c) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be assistant court systems coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand three hundred ninety-three dollars ($2,393) monthly during the first year of service, a salary of two thousand five hundred five dollars ($2,505) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand six hundred thirty-three dollars ($2,633) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the assistant court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(d) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint a court fiscal officer who shall be paid a minimum salary of two thousand nine hundred twenty-one dollars ($2,921) monthly during the first year of service, a salary of three thousand fifty-four dollars ($3,054) monthly during the second year of service commencing on the first day of the month following the first

anniversary of his or her appointment, and a salary of three thousand one hundred ninety-two dollars ($3,192) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(e) The clerk shall appoint three deputy clerks who shall be the chief division clerks in the civil, criminal and traffic departments of the court, and who shall be paid a minimum salary of two thousand seven hundred forty-seven dollars ($2,747) monthly during the first year of service, a salary of two thousand eight hundred seventy-three dollars ($2,873) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand five dollars ($3,005) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(f) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be criminal courts calendar coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand seven hundred forty-seven dollars ($2,747) monthly during the first year of service, a salary of two thousand eight hundred seventy-three dollars ($2,873) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand five dollars ($3,005) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the criminal courts calendar coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(g) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges may appoint, one court program analyst manager who shall be paid a salary of two thousand seven hundred fifty-three dollars ($2,753) monthly during the first year of service, a salary of two thousand eight hundred ninety-six dollars ($2,896) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of three thousand forty-two dollars ($3,042) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, a salary of three thousand one hundred ninety-four dollars ($3,194) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of three thousand three hundred fifty-three dollars ($3,353) monthly after the fourth year of

service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

(h) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one assistant court program analyst manager who shall be paid a salary of two thousand one hundred dollars ($2,100) monthly during the first year of service, a salary of two thousand three hundred eighteen dollars ($2,318) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of two thousand four hundred thirty-three dollars ($2,433) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, a salary of two thousand five hundred fifty-five dollars ($2,555) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of two thousand six hundred eighty-four dollars ($2,684) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one assistant court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of this court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

SEC. 5. Section 74504 of the Government Code is amended to read:

74504. The clerk shall also appoint:

(a) Seven deputy clerks who shall be assistant chief division clerks and who shall be paid a minimum salary of two thousand three hundred ninety-three dollars ($2,393) monthly during the first year of service, a salary of two thousand five hundred five dollars ($2,505) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of two thousand six hundred thirty-three dollars ($2,633) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(b) Thirty-five deputy clerks who shall be paid a minimum salary of one thousand nine hundred eighty dollars ($1,980) monthly

during the first year of service, a salary of two thousand one hundred six dollars ($2,106) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand two hundred seventy-one dollars ($2,271) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(c) Twenty-five deputy clerks who shall be paid a minimum salary of one thousand seven hundred sixteen dollars ($1,716) monthly during the first year of service, a salary of one thousand seven hundred seventy-five dollars ($1,775) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of one thousand eight hundred thirty-nine dollars ($1,839) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(d) One deputy clerk who shall be paid a minimum salary of one thousand six hundred six dollars ($1,606) monthly during the first year of service, a salary of one thousand six hundred forty-nine dollars ($1,649) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand six hundred ninety-six dollars ($1,696) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(e) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one administrative legal stenographer who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand seven hundred twenty-eight dollars ($1,728) monthly during the first year of service, a salary of one thousand seven hundred eighty-eight dollars ($1,788) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand eight hundred eighty-four dollars ($1,884) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one administrative legal stenographer who shall hold such position at their pleasure, and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(f) Thirty-seven deputy clerks who shall be paid a minimum salary of one thousand four hundred forty-eight dollars ($1,448) monthly during the first year of service, a salary of one thousand five hundred thirty-two dollars ($1,532) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one

thousand six hundred twenty dollars ($1,620) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(g) Seventy-five deputy clerks who shall be paid a minimum salary of one thousand one hundred forty-two dollars ($1,142) monthly during the first year of service, a salary of one thousand two hundred thirty-six dollars ($1,236) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand three hundred sixty-six dollars ($1,366) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(h) Two deputy clerk-information clerks who shall be paid a minimum salary of one thousand two hundred seventy-two dollars ($1,272) monthly during the first year of service, a salary of one thousand four hundred forty-seven dollars ($1,447) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, a salary of one thousand six hundred twenty-five dollars ($1,625) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum salary of one thousand six hundred seventy-nine dollars ($1,679) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the clerk, with the approval of the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk-information clerk, who shall perform such duties as assigned by the clerk and who shall receive the salary hereinabove provided.

(i) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as personnel-payroll deputy shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(j) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as budget-purchasing deputy to the court fiscal officer shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(k) Two deputy clerks designated in Section 74504 who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk of the court, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(*l*) Five deputy clerks designated in Section 74504 and while assigned by the clerk of the court as the principal courtroom clerks serving in the arraignment courts and traffic courts, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(m) Two deputy clerks designated in Section 74504 who shall serve as master jury calendar clerk, civil, and master jury calendar

clerk, criminal, and while assigned to such position shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(n) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as supervisor of the midnight to 8:00 a.m. shift shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(o) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 442

An act to amend Sections 25102, 25148, 27002, 31101, 31104, and 31500 of the Corporations Code, relating to corporations.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 25102 of the Corporations Code is amended to read:

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

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

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

is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

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

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

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

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) which meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director or affiliate of the issuer and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision; provided, however, that the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as

provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

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

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 35 persons, provided all of the following requirements have been met:

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

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

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

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

(5) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the

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

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

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the

business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) such security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by such bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law which has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus or employee stock ownership plan provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer or any other lender.

SEC. 2. Section 25148 of the Corporations Code is amended to read:

25148. Except in cases where the delivery of a prospectus or proxy statement is required under the Securities Act of 1933 or the Securities Exchange Act of 1934, the commissioner may by rule or order require as a condition of qualification under Section 25112, 25113, 25122 or 25131 that a prospectus or proxy statement containing any designated part of the information required in the application be given to each person to whom an offer is made before the sale of the security to be issued under the permit or order.

SEC. 3. Section 27002 of the Corporations Code is amended to read:

27002. As used in this division, "individual" includes every natural person, domestic or foreign private corporation, nonprofit corporation, unincorporated association, company, partnership of whatever kind, syndicate, joint stock company, trustee, protective committee, depositors' league, and other similar organization however described; but "individual" does not include any of the

following persons:

(a) Any licensed practicing attorney rendering or performing services in connection with the practice of law.

(b) Any person holding a broker-dealer's or investment adviser's certificate then in effect issued by the commissioner, rendering or performing services as such.

(c) Any holder of a permit then in effect, granted by the commissioner under the Corporate Securities Law, permitting the issue of certificates of deposit.

(d) Any securities depository as defined in Section 30004 of the Financial Code, which is licensed under Section 30200 of the Financial Code or exempted from licensing thereunder by Section 30005 or 30006 of the Financial Code.

(e) Any broker licensed by the Real Estate Commissioner of this state rendering or performing services with respect to securities, if the person would not be subject to the broker-dealer certification requirements for effecting transactions in the securities.

(f) Any person who the commissioner by rule designates as not being comprehended within the purposes of this division and with respect to whom the commissioner finds that certification is not necessary or appropriate in the public interest or for the protection of investors.

(g) Any security owner or holder who, without compensation of any kind, induces or attempts to induce, other security holders or owners of the same issuer into entering into agreements with persons who are excluded from "individual" by virtue of subdivisions (a) to (f).

SEC. 4. 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.

(e) Has filed with the commissioner a notice of exemption and paid the fee required by subdivision (f) of Section 31500 prior to an offer or sale of a franchise in this state during any calendar year in which one or more franchises are sold, excluding any major modification.

SEC. 5. Section 31104 of the Corporations Code is amended to read:

31104. 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) Is a petroleum corporation or distributor who is a wholesale distributor or marketer of petroleum products; doing business continuously for the past five years and who does not require an advance of funds in the nature of a fee or lease for such franchise agreements; not engaged in the production or the refining of petroleum; and

(b) Complies with the provisions of subdivisions (c), (d), and (e) of Section 31101.

(c) For the purposes of subdivision (a) of this section:

(1) A "wholesale distributor" or "marketer" means any entity which, for wholesale, purchases or receives through transfer, or otherwise obtains, by consignment or otherwise, refined petroleum products and resells or otherwise transfers such products, without substantially changing their form, to other purchasers.

(2) An "advance of funds" means (A) a fee or lease for a franchise agreement, and (B) does not mean rent for the possession or use, or both, of premises or property, the purchase of inventory for resale

or supplies, utility deposits, and other consideration or expenditures for the formation or operation, or both, of a wholesale distributor or marketer entity.

SEC. 6. Section 31500 of the Corporations Code is amended to read:

31500. (a) The commissioner shall charge and collect the fees fixed by this section. All fees and charges collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for registration of the sale of franchises under Section 31111 is four hundred fifty dollars ($450).

(c) The fee for filing an application for renewal of a registration under Section 31121 is one hundred fifty dollars ($150).

(d) The fee for filing an amendment to the application filed under Section 31111 or 31121 is fifty dollars ($50)

(e) The fee for filing an application for major modification under Section 31125 is fifty dollars ($50), but no separate fee shall be charged for such application if it accompanies an application under Section 31111 or 31121.

(f) The fee for filing the initial notice of exemption under subdivision (e) of Section 31101 is four hundred fifty dollars ($450) and the fee for filing each consecutive subsequent notice of exemption under these provisions is one hundred fifty dollars ($150).

CHAPTER 443

An act to amend Sections 10058, 10081, 10237, and 10237.1 of, and to repeal Section 10233.1 of, the Business and Professions Code, relating to real estate brokers.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 10058 of the Business and Professions Code is amended to read:

10058. The meetings of the commission are subject to 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.

SEC. 2. Section 10081 of the Business and Professions Code is amended to read:

10081. (a) Whenever the commissioner believes from evidence satisfactory to him that any person has violated or is about to violate any of the provisions of this part or of Chapter 1 (commencing with Section 11000) of Part 2 or any order, license, permit, decision, demand or requirement, or any part or provision thereof, he may

bring an action in the name of the people of the State of California in the superior court of the State of California against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

In this action an order or judgment may be entered awarding such preliminary or final injunction as may be proper, but no preliminary injunction or temporary restraining order shall be granted without at least five days' notice to the defendant.

If the commissioner makes a showing satisfactory to the court that the violations or threatened violations jeopardize funds and properties of others in the custody or under the control of the defendant, the court may appoint a receiver for management of the business of the defendant, including, but not limited to, the funds and properties of others in his or her possession or may make any other order as it deems appropriate to protect and preserve those funds and properties.

(b) The commissioner may include in any action authorized by subdivision (a), a claim for restitution on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award appropriate relief to such persons.

SEC. 3. Section 10233.1 of the Business and Professions Code, as added by Chapter 854 of the Statutes of 1982, is repealed.

SEC. 4. Section 10237 of the Business and Professions Code is amended to read:

10237. A real property securities dealer within the meaning of this article is any person, acting as principal or agent, who engages in the business of:

(a) Selling real property securities as defined by subdivision (a) or (b) of Section 10237.1, to the public, or

(b) Offering to accept or accepting funds for continual reinvestment in real property securities, or for placement in an account, plan or program whereby the dealer implies that a return will be derived from a specific real property sales contract or promissory note secured directly or collaterally by a lien on real property which is not specifically stated to be based upon the contractual payments thereon.

SEC. 5. Section 10237.1 of the Business and Professions Code is amended to read:

10237.1. The term real property security as used in this article means:

(a) An agreement made in connection with the arranging of a loan evidenced by a promissory note secured directly or collaterally by a lien on real property or made in connection with the sale of a promissory note secured directly or collaterally by a lien on real property or a real property sales contract wherein the real property securities dealer or his principal expressly or impliedly agrees to do any of the following:

1. Guarantee the note or contract against loss at any time, or

2. Guarantee that payments of principal or interest will be paid in conformity with the terms of the note or contract, or

3. Assume any payments necessary to protect the security of the note or contract, or

4. Accept, from time to time, partial payments for funding the loan or purchasing the note or contract, or

5. Guarantee a specific yield or return on the note or contract, or

6. Pay with his own funds any interest or premium for a period prior to actual purchase and delivery of the note or contract, or

7. Repurchase the note or contract.

(b) A promissory note secured directly or collaterally by a lien on real property or a real property sales contract on which the real estate broker who arranged the loan evidenced by the note, negotiated the sale of a note or contract or who is servicing the note or contract for the owner, knowingly causes any payment on the note or contract to be made to the owner, directly or indirectly, with funds other than funds of the obligor while the obligor is delinquent on the note or contract.

Payments of principal or interest made in good faith to the owner by a broker, when made after receipt by the broker of the obligor's remittance, shall not be deemed a payment with funds other than the funds of the obligor.

The provisions of this subdivision shall not be applicable in the case of a promissory note which the obligor as purchaser of the real property securing the note has given to the holder of the note as seller of the real property for purposes of financing the purchase nor shall the provisions of this subdivision be applicable in the case of a real property sales contract under the terms of which the obligor is making installment payments to acquire title to the real property from the vendor.

(c) One of a series of promotional notes secured by liens on separate parcels of real property in one subdivision or in contiguous subdivisions.

(d) One of a series of real property sales contracts pertaining to separate parcels of real property in one subdivision or in contiguous subdivisions, all of which are executed by one person or persons associated together as owners.

Except as provided in subdivisions (a) or (b), performance of services in connection with loans or promissory notes secured directly or collaterally by a lien on real property or a real property sales contract, as agent for and at the direction of the lender, borrower, or purchaser, including but not limited to the payment of taxes, debt service on an obligation secured by the same real property having priority over any mortgage or deed of trust securing the promissory note serviced by the agent, insurance premiums or costs of foreclosure, if all such costs (excluding routine office expenses) of such services are paid by or payable by borrower, lender, or purchaser shall not be construed to be a real property security as defined in subdivision (a) of this section, or as a security

for the purposes of the Corporate Securities Act.

As used in subdivision (c) "promotional note" means a promissory note secured by a trust deed executed on unimproved real property, or executed after construction of an improvement of the property but before the first sale of the property as so improved, or executed as a means of financing the first purchase of the property as so improved, and which is subordinate or which by its terms may become subordinate to any other trust deed on the property; provided that the term "promotional note" does not include (i) a note which was executed in excess of three (3) years prior to being offered for sale or (ii) a note secured by a first trust deed on real property in a subdivision, which evidences a bona fide loan made in connection with the financing of the usual costs of the development of a residential, commercial, or industrial building or buildings on the property under a written agreement providing for the disbursement of the loan funds as costs are incurred or in relation to the progress of the work and providing for title insurance insuring the priority of the security as against mechanic's and materialmen's liens or for the final disbursement of at least 10 percent of the loan funds after the expiration of the period for the filing of mechanics' and materialmen's liens.

As used in subdivision (d), the term "real property sales contract" does not include a contract executed more than three years prior to being offered for sale.

The term real property security does not include any bond or debenture or note which is one of a series of notes of equal priority secured by an interest in the same real property.

CHAPTER 444

An act to add Chapter 5 (commencing with Section 75470) to Part 8 of Division 21 of the Water Code, relating to water conservation districts.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Chapter 5 (commencing with Section 75470) is added to Part 8 of Division 21 of the Water Code, to read:

CHAPTER 5. CENTRAL SAN JOAQUIN WATER CONSERVATION DISTRICT CHARGES

75470. The Central San Joaquin Water Conservation District, in addition to its other powers, may fix and collect charges as provided in this chapter.

As used in this chapter, "district" means the Central San Joaquin Water Conservation District.

75470.5. On or before the 30th day of June of each year, the district may, by resolution of the board, fix and collect charges sufficient to meet and pay the estimated expenses and obligations, including a reasonable reserve for contingencies, of the district, until the time that money shall be available to the district from charges fixed in the next succeeding year, subject, however, to a maximum limit of two dollars and fifty cents ($2.50) upon each acre of taxable land within the district.

The board, in fixing the charges, may establish the dates of delinquency and may impose penalties for delinquency not exceeding 10 percent of the amount of the charge and may, in addition, collect interest at the rate of 8 percent per annum from the date of delinquency on all delinquent charges. The district may sue for the recovery of unpaid charges.

The revenue obtained from the charges may be used for any district purpose and the payment of any district obligation.

75471. The board, in fixing the charges pursuant to Section 75470.5, shall fix a uniform charge per acre on each acre of taxable land within the district sufficient to pay its estimated expenses and obligations.

75471.5. If the charge for any parcel of land separately charged, based on the rate fixed pursuant to Section 75471, 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.

75472. The district may, by resolution of the board, provide a procedure for and collect the charges by way of the tax bills of the county in which the district is located. The 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 those taxes.

The district shall, on or before August 1st of each year, certify to the county auditor the charges to be collected. The county may deduct from the revenue so collected for the district an appropriate amount for the billing and collection services rendered to the district.

75473. 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.

75474. The board shall annually fix and collect a charge, as provided in Section 75471, until the board, on its own motion or on petition of landowners representing at least 25 percent of the land within the district or at least 25 percent of the voters of the district, directs that commissioners be named to make a determination 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 district

and from any contract the district may have entered into. The determination shall be effective as of the first day of July in the next succeeding year.

75475. The board, pursuant to Section 75474, shall thereafter appoint three commissioners who have no interest in any real property within the district, each of whom, before entering upon his or her duties, shall make and subscribe an oath that he or she is not in any manner interested in any real property within the district, directly or indirectly, and that he or she will perform the duties of a commissioner to the best of his or her abilities.

75475.5. The commissioners shall determine whether the district should be divided into more than one zone of benefit.

If the commissioners determine that the district 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 at 100 percent, and the benefit received by the other zones shall be expressed in terms of relatively smaller percentages as the benefits compare with those received by Zone 1.

The commissioners shall prepare a map showing the boundaries of the zones and their respective benefit percentages, and a report explaining the basis for their determination.

75476. 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 district is located by publishing once each week for at least two successive weeks in a newspaper of general circulation.

75476.5. 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.

75477. 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. The landowner or interested person may object 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.

75477.5. 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 the benefit zones and the percentages of benefits applicable thereto which shall best approximate the benefits received.

75478. Upon an order that the district be divided into more than one zone, the charge per acre made pursuant to Section 75471 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 equal to the amount determined to be required pursuant to Section 75470.5.

75478.5. The board, subsequent to any redetermination of benefits made pursuant to Section 75474, may, on its own motion or on petition of landowners representing at least 25 percent of the lands within the district or at least 25 percent of the voters of the district, direct that the zones of benefit or that the percentages of benefit be further redetermined in the same manner as provided in this chapter.

SEC. 2. The provisions of this act are necessary because of special circumstances within the Central San Joaquin Water Conservation District. The district faces serious and unique problems arising from the depleted groundwater basin within the district. The district has been required to incur unusual and substantial expenses for the protection and augmentation of the water supplies of the district, and the charges authorized to be collected pursuant to this act are necessary to equitably finance those activities of the district. This problem is not common to all districts formed under the Water Conservation District Law of 1931. It is therefore hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable and that the enactment of Chapter 5 (commencing with Section 75470) of Part 8 of Division 21 of the Water Code as a special law is necessary for the solution of problems existing in the Central San Joaquin Water Conservation District.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 445

An act to amend Section 1028.5 of the Code of Civil Procedure, relating to court costs.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 1028.5 of the Code of Civil Procedure is amended to read:

1028.5. (a) In any civil action between a small business or a licensee and a state regulatory agency, involving the regulatory functions of a state agency as applied to a small business or a licensee,

if the small business or licensee prevails, and if the court determines that the action of the agency was undertaken without substantial justification, the small business or licensee may, in the discretion of the court, be awarded reasonable litigation expenses in addition to other costs. Funds for such expenses and costs shall be paid from funds in the regular operating budget of the state regulatory agency where the appropriation therefor encompasses the payment of such costs and expenses, and not from unappropriated money in the General Fund.

(b) "Reasonable litigation expenses" means any expenses not in excess of seven thousand five hundred dollars ($7,500) which the judge finds were reasonably incurred in opposing the agency action, including court costs, expenses incurred in administrative proceedings, attorney's fees, witness fees of all necessary witnesses, and such other expenses as were reasonably incurred.

(c) "Small business" means a business activity that is all of the following:

(1) Independently owned and operated.

(2) Not dominant in its field of operation.

(3) Not exceeding the following annual gross receipts or other criteria in the categories of:

(A) Agriculture, one million dollars ($1,000,000).

(B) General construction, nine million five hundred thousand dollars ($9,500,000).

(C) Special trade construction, five million dollars ($5,000,000).

(D) Retail trade, two million dollars ($2,000,000).

(E) Wholesale trade, nine million five hundred thousand dollars ($9,500,000).

(F) Services, two million dollars ($2,000,000).

(G) Transportation and warehousing, one million five hundred thousand dollars ($1,500,000).

(H) A manufacturing enterprise not exceeding 250 employees.

(I) A health care facility not exceeding 150 beds or one million five hundred thousand dollars ($1,500,000) in annual gross receipts.

(J) Generating and transmitting electric power not exceeding 4,500 megawatt hours annually.

(d) "Licensee" means any person licensed by a state agency who does not qualify as a small business, but whose annual gross receipts from the use of such license do not exceed one million dollars ($1,000,000).

(e) A small business or a licensee shall be deemed to prevail in any action in which there is no adjudication, stipulation, or acceptance of liability on the part of the small business or licensee.

(f) A small business or licensee shall not be deemed to have prevailed in actions commenced at the instance of, or on the basis of a complaint filed by, a person who is not an officer, employee, or other agent of the state regulatory agency if the action is dismissed by the agency upon a finding of no cause for the action, or is settled by the agency and small business or licensee without a finding of

fault.

(g) Section 800 of the Government Code shall not apply to actions which are subject to the provisions of this section.

(h) Every state regulatory agency against which litigation expenses have been awarded under this section shall, at the time of submission of its proposed budget pursuant to Section 13320 of the Government Code, submit a report to the Department of Finance and the Legislature as to the amount of those expenses awarded and paid during the fiscal year.

(i) This section shall be known and may be cited as the Carpenter-Katz Small Business Equal Access to Justice Act of 1981.

CHAPTER 446

An act to amend Section 832.6 of the Penal Code, relating to peace officers.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. 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) Deputized or appointed pursuant to paragraph (1) of subdivision (a) of Section 830.6 and is 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 prescribed by the Commission on Peace Officer Standards and Training.

A person deputized or appointed pursuant to paragraph (2) of subdivision (a) of Section 830.6 shall have the powers of a peace officer when 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 course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training; 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 and 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. Persons who were qualified to be issued the level I reserve officer certificate before January 1, 1981, and who state in writing under penalty of perjury that they applied for but were not issued the certificate before January 1, 1981, may be issued the certificate before July 1, 1984. For purposes of this section, certificates so issued shall be deemed to have the full force and effect of any level I reserve officer certificate issued prior to January 1, 1981.

(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.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 447

An act relating to swamp and overflowed land within the County of San Mateo, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. (a) "Pete's Harbor" means that certain real property located in the County of San Mateo, State of California, in and along Smith Slough and Redwood Creek, as more particularly described in Section 4 of this act.

(b) "Current record titleholder" means the successors in interest to the original patentees of those portions of San Mateo County Swamp and Overflowed Land Survey No. 61 and Swamp and Overflowed Land Location No. 4166 which lie within the boundaries of Pete's Harbor.

SEC. 2. The Legislature hereby finds and declares the following:

(a) By act of Congress on September 28, 1850 (9 Stat. 519), as subsequently amended and modified, all swamp and overflowed lands in this state, subject to later identification, were granted to the state.

(b) The act of Congress operated to convey such lands to the state upon its admission to statehood on September 9, 1850, upon the condition that the swamp and overflowed lands be then subsequently sold into private ownership, be reclaimed, and put into a productive use.

(c) The lands described in Section 4 of this act were conveyed into private ownership by the State of California by means of swamp and overflowed land patents issued in 1868 and 1930, upon receipt of the full purchase price therefor by the State of California.

(d) A genuine legal controversy now exists as to whether certain lands within Pete's Harbor are in public or private ownership. This controversy has resulted in a cloud on title being placed on these lands which operates as a hindrance to their full use and enjoyment and substantially impairs the full development thereof.

(e) The current record titleholder of Pete's Harbor has constructed a restaurant, a marina, a boat launching ramp, and a boat repair facility on these lands, and has dredged portions of these lands. By virtue of these improvements the real property comprising Pete's Harbor has been made accessible to the public as a marina and harbor facility and the public has made substantial beneficial use of these lands, and absent the actions of the current record titleholder in reclaiming, dredging, and otherwise improving the lands, they would not be suitable for such access by the public as a marina and harbor facility.

(f) The State of California, via the State Lands Commission, in good faith and to protect the interest of the people of the state in the public trust for commerce, navigation, and fisheries, alleges that such public trust exists over a portion of the lands comprising Pete's Harbor, specifically Smith Slough, by virtue of their contention that Smith Slough was in its natural state, on September 9, 1850, in fact tide or submerged lands and not swamp and overflowed lands. Based upon this claim, the State Lands Commission further alleges that those tide and submerged lands located in Smith Slough are in fact owned by the State of California in its sovereign capacity and are impressed with the tideland trust for commerce, navigation, and fishery.

(g) The current record titleholder in good faith and to protect his or her interest in Pete's Harbor alleges that the State of California is bound by the characterization of these lands and swamp and overflowed lands in the 1868 and 1930 patents and further that the lands comprising Pete's Harbor, including Smith Slough, were in their natural state, on September 9, 1850, swamp and overflowed lands and not tide or submerged lands, and therefore not subject to the public trust for commerce, navigation, and fishery.

(h) That area under which the existing restaurant facility is located was in its natural state on September 9, 1850, above the line of mean high tide and was not tide or submerged lands and, therefore, not subject to the tidelands trust for commerce, navigation or fishery. This area was subsequently dredged inland so as to allow navigable waters to flow over lands within this area which were, in their natural state on September 9, 1850, above the line of mean high tide. This area was validly patented into private ownership by the State of California and was not at any time on or after September 9, 1850, sovereign lands held in trust by the State of California.

(i) Without making any determination as to the merits or contentions of the state or the current record titleholder, it is difficult, if not impossible, to accurately locate the historic mean high tide line as it relates to Smith Slough, and to determine whether such lands were in their natural state on September 9, 1850, tide and submerged or swamp and overflowed lands.

(j) It is in the best interest of the people of the State of California and the current record titleholder to resolve this controversy in a fair, just, and equitable manner which will protect the rights of the public within the navigable waters of this state and at the same time protect the rights of the current record titleholder.

SEC. 3. Based upon the findings and declarations set forth in Section 2 of this act, the Legislature, in order to effect a fair, just, and equitable resolution of this title controversy, finds and declares the following:

(a) In consideration of the State of California, by the State Lands Commission, relinquishing all right, title, and interest, if any, including, but not limited to, the public trust for commerce, navigation, and fishery, in those lands constituting Pete's Harbor,

excluding therefrom that portion of Pete's Harbor known as Smith Slough; and

(b) In consideration of the current record titleholder relinquishing all right, title, and interest, if any, in that portion of Pete's Harbor known as Smith Slough; then

(1) With respect to that portion of the real property comprising Pete's Harbor, known as Smith Slough, and in recognition of the fact that it is difficult if not impossible to accurately locate the historic mean high tide line as it relates to Smith Slough, the boundary line between sovereign lands and privately owned lands along the banks of Smith Slough within Pete's Harbor shall be the existing mean high tide line as established by survey made not later than 90 days after the effective date of this act, and shall be deemed an accurate approximation of the historic mean high tide line.

(2) With respect to that area located below the existing line of mean high tide within which pilings supporting a portion of the restaurant facility are located, shall be retained in fee by the current record titleholder, free of any and all interests of the State of California, including, but not limited to, the tideland trust for commerce, navigation, or fishery.

(3) With respect to all remaining portions of the real property comprising Pete's Harbor, the current record titleholder shall hold such lands free of any claim of ownership or interest of the State of California, except for those reservations, if any, contained in the 1868 and 1930 patents.

(4) The current record titleholder of Pete's Harbor may construct a berm and place minor fill northerly to the first existing line of pilings on the southerly bank of Smith Slough, along a line commencing at the intersection of Pete's Harbor with Redwood Creek and ending at the point of intersection with the pilings supporting a portion of the restaurant facility for purposes of shoreline improvement, protection of existing upland improvements, and protection against inundation to the lands located above the existing line of the mean high tide within Pete's Harbor.

(5) The State Lands Commission shall issue to the current titleholder of Pete's Harbor a 25-foot wide right-of-way permit for utilities located within Smith Slough and servicing the facilities of Pete's Harbor. The permit shall be irrevocable and rent free. It shall be freely transferable without the prior consent of the State Lands Commission.

(6) Any and all improvements located upon the navigable waters of or in the bed of Smith Slough in Pete's Harbor, as of January 15, 1982, are hereby declared to be consistent public trust uses and shall remain as such so long as the current record titleholder maintains a marine harbor or berthing facility at Pete's Harbor. Any and all ordinary and necessary maintenance and repair of such improvements, including, but not limited to, replacement where necessary due to reasons of public health or safety, deterioration, or

destruction, are authorized to be made by the current record titleholder, at the sole expenses of the current record titleholder, and such activities are hereby declared to be consistent trust uses.

(7) The State of California shall, by and through the State Lands Commission, lease to the current record titleholder that area of Smith Slough enclosed by a line running parallel, in an east-west orientation, to the northernmost extension of the present marina and docking facilities located in Smith Slough, within Pete's Harbor, and extending to the point of intersection with the eastern boundary of the area of Pete's Harbor located within Smith's Slough, and extending to the point of intersection with the western boundary of this area at its point of intersection with Redwood Creek, then at right angles from each such point to the point of intersection with the existing mean high tide line as established on the southern bank of Smith Slough, this area to be established by survey as described in paragraph (6).

The lease shall be in effect for 49 years at an annual rental in accordance with the following schedule:

(1) Years one to 10, inclusive, one thousand five hundred dollars ($1,500) per year.

(2) Years 11 to 20, inclusive, two thousand five hundred dollars ($2,500) per year.

(3) Years 21 to 30, inclusive, three thousand five hundred dollars ($3,500) per year.

(4) Years 31 to 40, inclusive, five thousand dollars ($5,000) per year.

(5) Years 41 to 49, inclusive, six thousand dollars ($6,000) per year.

The rental shall be paid annually by the current record titleholder. At the termination of the 49-year lease period, the current record titleholder shall be granted an option to renew the lease at prevailing fair market value.

The property shall be leased for the purpose of maintaining marina and harbor facilities, including, but not limited to, the present facilities. The current record titleholder is hereby authorized to make all reasonable and necessary maintenance and repair to the facilities located in the leased area, including, but not limited to, replacement where necessary due to reasons of public health and safety, deterioration, or destruction and may alter or relocate berthing facilities within the leased area so long as such activities are consistent with paragraph (4).

(8) The State Lands Commission shall, within 90 days after the effective date of this act, survey and map those areas required to give effect to the provisions of this act, and the survey and map shall become effective upon approval thereof by the current record titleholder and the State Lands Commission.

SEC. 4. The real property comprising Pete's Harbor is that certain area in the County of San Mateo, State of California, in and along Smith Slough and Redwood Creek, more particularly described as follows:

Parcel One:

A portion of the fractional west ½ of the northwest ¼ of Section 17 and portion of the east ½ of the northeast ¼ of Section 18, Township 5, south, range 3 west, Mount Diablo base and meridian, more particularly described as follows:

Commencing at the corner common to Sections 7, 8, 17, and 18 in Township 5, south, range 3 west Mount Diablo base and meridian; such point of commencement being also the northeast corner of swamp and overflowed land survey No. 61 and the southwest corner of swamp and overflowed land survey No. 74, in such township and range; thence from that point of commencement east 104.83 feet along the north line of Section 17 to the true point of beginning of this description; thence from that point of beginning south 17° 27′ 28″ west 1132.76 feet; thence south 401.28 feet; thence south 17° 47′ 32″ east 717.76 feet; thence north 63° 45′ east 1000.71 feet, to the west bank of Redwood Creek; thence following along that west bank and the meanderings thereof, the following courses and distances: north 46° 24′ west 232.74 feet; north 54° 06′ west 398.72 feet to the southerly bank of a slough, north 41° 52′ west 520.60 feet to the northerly bank of a slough, north 8° 47′ east 380.44 feet, north 21° 35′ east 292.84 feet, north 36° 39′ east 213.30 feet, north 48° 40′ east 183.46 feet to the north line of such Section 17; thence leaving such west bank of Redwood Creek and along such north line of Section 17 which is also the southerly line of the above mentioned survey No. 74 west 368.99 feet to the true point of beginning. The bearings used in the above described refers to the meridian employed in the above-described swamp and overflowed land survey No. 1.

Parcel Two:

A portion of the fractional west ½ of the northwest ¼ of Section 17, and portion of the east ½ of the northeast ¼ of Section 18, all in Township 5 south, range 3 west, Mount Diablo base and meridian more particularly described as follows:

Beginning at the most southerly corner of the lands described in the deed from Earl P. Wilsey and wife to Eric Watkin, dated October 24, 1955, and recorded December 8, 1955, in Book 2930 of official records of San Mateo County at page 733 (10941-N); thence from that point of beginning along the southeasterly boundary line of such lands north 63° 45′ east 1000.71 feet to the west bank of Redwood Creek; thence along such west bank Redwood Creek south 46° 24′ east 144.80 feet to an angle point therein; thence continuing along such west bank south 28° 41′ east 203.51 feet; thence leaving such west bank of Redwood Creek south 81° 30′ 35″ west 1112.27 feet to the point of beginning.

SEC. 5. It is the intent of the Legislature that the current record titleholder and the State Lands Commission reach an amicable settlement of any ancillary disputes not discussed in this act.

SEC. 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions

of this act are severable.

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 the necessity are:

In order to clarify and protect the public interest in certain lands which have been developed for marina purposes within the County of San Mateo at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 448

An act to amend Sections 21059, 21111, 21283.5, 21288, and 21291 of, and to add Section 64717.6 to, the Food and Agricultural Code, relating to cattle, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 21059 of the Food and Agricultural Code is amended to read:

21059. Inspection is not required in the following cases when cattle are shipped for pasture or feeding purposes and there is no change of ownership:

(a) When the cattle are moved only between points in the same modified point-of-origin inspection area.

(b) When the cattle are only moved across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved only between points within a point-of-origin area.

(d) When cattle are moved across a modified point-of-origin inspection area boundary in accordance with regulations adopted by the director which specifically allow such cattle to move under a permit for a distance not to exceed 40 miles from loading point to destination. The director may establish a fee for such permit on a graduated scale based on the number of head of cattle moved in a 12-month period, but not to exceed two hundred dollars ($200).

(e) When female cattle of the dairy breeds are moved from one grazing or pasture area to another grazing or pasture area and the areas are owned or controlled by the same person. However, this movement must be accompanied by a certificate of ownership or other proof of ownership document.

The provisions of subdivision (i) of Section 21051 shall take precedence over this section.

This section does not apply to cattle entering a registered feedlot.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 1.5. Section 21059 of the Food and Agricultural Code is amended to read:

21059. Inspection is not required for pasture-to-pasture movement in the following cases:

(a) When the cattle are moved or transported only between points in the same modified point-of-origin inspection area.

(b) When the cattle are moved or transported across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved or transported only between points within a full point-of-origin area.

(d) When cattle are moved or transported across a modified point-of-origin inspection area boundary in accordance with regulations adopted by the director which specifically allow the cattle to move under a permit for a distance not to exceed 40 miles from loading point to destination. The director may establish a fee for the permit for a 12-month period. The permit fee shall not exceed two hundred dollars ($200).

(e) When female cattle of the dairy breeds are moved or transported from one grazing or pasture area to another grazing or pasture area and the areas are owned or controlled by the same person. However, this movement shall be accompanied by a certificate of ownership or other proof of ownership document.

The provisions of subdivision (i) of Section 21051 shall take precedence over this section.

This section does not apply to cattle entering a registered feedlot.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 2. Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, of the Food and Agricultural Code is amended to read:

21059. Inspection is not required in the following cases when cattle are shipped for pasture or feeding purposes and there is no change of ownership:

(a) When the cattle are moved only between points in the same modified point-of-origin inspection area.

(b) When the cattle are only moved across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved only between points within a point-of-origin area.

This section does not apply to cattle entering a registered feedlot.

This section shall become operative on June 30, 1987.

SEC. 2.5. Section 21059, as added by Section 2 of Chapter 868 of

the Statutes of 1980, of the Food and Agricultural Code is amended to read:

21059. Inspection is not required for pasture-to-pasture movement in the following cases:

(a) When the cattle are moved or transported only between points in the same modified point-of-origin inspection area.

(b) When the cattle are moved or transported across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved or transported only between points within a full point-of-origin area.

This section does not apply to cattle entering a registered feedlot.

This section shall become operative on June 30, 1987.

SEC. 3. Section 21111 of the Food and Agricultural Code is amended to read:

21111. The director shall, by regulation, establish and maintain a modified point-of-origin inspection area whenever the cattlemen owning cattle in the affected area request the action by a two-thirds vote of those cattlemen, who are either property taxpayers, lessees, or residents of the affected area and who are present at a public hearing held at a central location in the area. The director shall hold a statewide hearing within sixty days of the passage of this act, and once a year thereafter, to determine what areas wish to consider establishing a modified point-of-origin inspection area. Based on the testimony presented at these hearings, the director shall conduct local hearings in those areas where significant interest exists. The cost of each local hearing shall be borne by the producers in the area based on a written agreement between producers in the area and the director. Notice of the local hearing shall be publicized by the department at least 30 days prior to the hearing date through local publications and radio; shall be posted at all sales yards, slaughter plants and feedlots in the area; and shall be circulated to all known beef cattle and dairy cattle associations having producer members in the areas. The two-thirds vote of those attending pertains to these local hearings.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 4. Section 21283.5 of the Food and Agricultural Code is amended to read:

21283.5. Except as otherwise provided in this article, on all private treaty transaction inspections, as defined in Section 20026, regardless of destination, the fee of seventy-five cents ($0.75) shall be paid at the point of inspection for each animal which is inspected.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 5. Section 21288 of the Food and Agricultural Code is amended to read:

21288. In a modified point-of-origin inspection area, as provided for in Section 21111, the fee for the inspection of cattle, other than suckling calves which are accompanying their mothers, is sixty cents ($0.60) per head if the cattle are transported out of the area for purposes other than sale or slaughter and no change of ownership is involved.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 6. Section 21291 of the Food and Agricultural Code is amended to read:

21291. The fees which are provided in Article 9 (commencing with Section 21281) and Article 5 (commencing with Section 21561) may be:

(a) Lowered by the director, based upon a finding and recommendation of the Livestock Identification Advisory Board, whenever they determine that the cost of administering and enforcing the provisions of this division may be maintained with a lower fee.

(b) Increased, by an amount not to exceed 20 percent of the statutory fee, by the director upon the recommendation of the Livestock Identification Advisory Board whenever they determine that the costs of administering and enforcing the provisions of this division require a greater fee. The advisory board must approve any increase in fees by a two-thirds vote of its entire membership.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 6.5. Section 64717.6 is added to the Food and Agricultural Code, to read:

64717.6. Any registrant who violates this article shall, in addition to the provisions of this chapter, be subject to Sections 58930 and 59234.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill 755 are both chaptered and become effective January 1, 1984, both bills amend Section 21059 of the Food and Agricultural Code, and this bill is chaptered after Senate Bill 755, that the amendments to Section 21059 proposed by both bills be given effect and incorporated in Section 21059 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 755 are both chaptered and become effective January 1, 1984, both amend Section 21059, and this bill is chaptered after Senate Bill 755, in which case Section 1 of this act shall not become operative.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill 755 are both chaptered and become effective January 1, 1984, both bills amend Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, of the Food and Agricultural Code, and this bill is chaptered after Senate Bill 755, that the amendments to

Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, proposed by both bills be given effect and incorporated in Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, 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 755 are both chaptered and become effective January 1, 1984, both amend Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, and this bill is chaptered after Senate Bill 755, in which case Section 2 of this act shall not become operative.

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 the necessity are:

In order to enable the provisions of this act to aid the beef industry as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 449

An act to amend Section 5015 of the Public Resources Code, relating to the state park system.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 5015 of the Public Resources Code is amended to read:

5015. (a) In recognition of the late Robert H. Meyer's many contributions to the growth and improvement of the state park system, the El Matador, El Pescador, and La Piedra State Beaches are hereby designated and shall be known collectively as the Robert H. Meyer Memorial State Beaches.

(b) Not later than January 15, 1984, the department shall erect appropriate signs at, and in the vicinity of, the state beaches to reflect the designation made by this section. Thereafter, the department shall cause all directories and other publications concerning the state park system to reflect that designation as the publications are periodically revised.

CHAPTER 450

An act to add Article 15 (commencing with Section 43061) to Chapter 2 of Division 17 of the Food and Agricultural Code, relating to food.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Article 15 (commencing with Section 43061) is added to Chapter 2 of Division 17 of the Food and Agricultural Code, to read:

Article 15. County Fees

43061. The board of supervisors of a county may require registration and establish a schedule of annual registration fees to be paid by any person who acts as a wholesaler of fresh fruit and vegetables under any license required under Chapter 7 (commencing with Section 56101) of Division 20, and who maintains an office or salesroom or conducts that business in the county. The schedule shall be designed to pay not more than one-third of the costs of the county for the administration and enforcement of this division or any regulations adopted pursuant to this division. Any funds derived under this section shall be used only for the enforcement of wholesale inspections of fruits and vegetables pursuant to this division. The maximum fee that may be established pursuant to this section shall not exceed two hundred fifty dollars ($250).

43062. Section 43061 does not apply to any of the following:

(a) Any person acting as a retail merchant, as that term is described in Section 56161, or any person acting as a producer, as that term is defined in Section 56110.

(b) Any person who only handles products other than fruits and vegetables, as defined in Section 42510.

(c) Any person that is licensed only as a broker, as defined in Section 56103.

(d) Any county with a population of less than 6,000,000.

43063. "Costs," as used in this article, means direct costs only in the administration and enforcement of this division at places other than places operated by retail merchants, as that term is described in Section 56161.

43064. It is unlawful for any person to operate as a wholesaler of fruits and vegetables under this division in any county with registration as established pursuant to this article unless that person is registered and has paid the required fee pursuant to this article.

43065. (a) A fruit and vegetable wholesaler registration issued pursuant to Section 43061 may be refused, revoked, or suspended by

the commissioner for any violation of either this division or a regulation issued pursuant to this division.

(b) Procedures for the refusal, suspension, or revocation of a registration shall be the same as those contained in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 451

An act to add Section 12807.5 to the Government Code, relating to parks and recreation.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 12807.5 is added to the Government Code, to read:

12807.5. The Secretary of the Resources Agency, in reviewing projects pursuant to Sections 5096.87 and 5096.128 of the Public Resources Code, shall consider the arborescent prototype park project of the Southgate Recreation and Park District in Sacramento County.

It is the intent of the Legislature that, if the secretary deems that project to be among projects of highest priority and there are insufficient money available under the Z'berg-Collier Park Bond Act and the Nejedly-Hart State, Urban, and Coastal Park Bond Act of 1976 to fund a one hundred seventy-two thousand dollar ($172,000) grant to the district for that project, any deficiency in that grant be made from other available sources.

CHAPTER 452

An act to add Section 8102 to the Fish and Game Code, relating to commercial fishing.

[Approved by Governor July 27, 1983 Filed with
Secretary of State July 28, 1983.]

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

SECTION 1. Section 8102 is added to the Fish and Game Code, to read:

8102. (a) The Legislature finds and declares that, in some limited entry fisheries, two or more partners may be operating with one of the partners holding the permit to participate in the fishery. The Legislature further finds and declares that undocumented, de facto, family partnerships are a longstanding custom in these fisheries. The Legislature further finds and declares that great hardship results when the permittee partner is no longer able to continue working and leaves the other partner without a permit to continue participating in the fishery.

(b) In any limited entry fishery in which permits are allocated to participants in the fishery, and where the death, incapacity, or retirement of a permittee from that fishery would deprive a working partner of the permittee of the ability to continue to derive a livelihood from that fishery, a permit shall be issued, upon application, to one remaining partner.

(c) A working partner for the purposes of this section shall be a spouse, child (including an adopted child), or sibling of the permittee, whose investment or equity need not be proven by documentation, or a person who can prove an investment or equity in the vessel or gear used in the fishery, and who would otherwise have been eligible for a permit and did not obtain one because he or she was working with or was a partner with the permittee.

(d) The working partner shall also provide substantial evidence of an actual physical working participation aboard the vessel supported by the submission of documents filed with the Franchise Tax Board and supported by trip settlement sheets or similar documents that demonstrate earnings from that participation. "Trip settlement sheet" means a document prepared after a vessel has completed a fishing trip which displays the costs incurred, revenues received, and profits paid out. Investment or equity alone does not establish that the person is a working partner.

(e) Those existing working partners other than the family relationships specified in subdivision (c) may, not later than February 1, 1984, declare and prove the working partnership in a manner satisfactory to the department and request that the department state the fact of the working partnership upon the permit. Thereafter, a nonfamily working partnership shall be declared, proved, and noted upon any limited entry permit at the first issuance of the permit.

CHAPTER 453

An act to amend Section 429.64 of the Health and Safety Code, relating to health.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 429.64 of the Health and Safety Code is amended to read:

429.64. (a) The state department shall provide appropriate flu vaccine to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations in the order of priority first, for all persons 60 years of age or older in this state and then to any other high-risk groups identified by the United States Public Health Service. The state department and the State Department of Aging shall prepare, publish, and disseminate information regarding the availability of the vaccine and the effectiveness of the vaccine in protecting the health of older persons.

(b) The state department may provide appropriate pneumonia vaccine to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations for groups identified as high risk by the United States Public Health Service.

(c) The program shall be designed to utilize voluntary assistance from public or private sectors in administering such vaccines. However, local governmental or private, nonprofit agencies may charge and retain a fee not exceeding two dollars ($2) per person to offset administrative operating costs.

(d) Except when the state department determines that it is not feasible to utilize federal funds due to excessive administrative costs, the state department shall seek and utilize available federal funds to the maximum extent possible for the cost of the vaccine, the cost of administering the vaccine and the minimal fee charged under this section, including reimbursement under the Medi-Cal program for persons eligible therefor to the extent permitted by federal law.

(e) Administration of the vaccine shall be performed either by a physician, a registered nurse, or a licensed vocational nurse acting within the scope of their professional practice acts. The physician under whose direction the registered nurse or a licensed vocational nurse is acting shall require such nurse to satisfactorily demonstrate familiarity with (1) contraindication for the administration of such immunizing agents, (2) treatment of possible anaphylactic reactions, and (3) the administration of treatment, and reactions to such immunizing agents.

(f) No private, nonprofit volunteer agency whose involvement

with an immunization program governed by this section is limited to the provision of a clinic site or promotional and logistical support pursuant to subdivision (c), or any employee or member thereof, shall be liable for any injury caused by an act or omission in the administration of the vaccine or other immunizing agent to a person 60 years of age or older or to members of high-risk groups identified by the United States Public Health Service, if the immunization is performed pursuant to this section in conformity with applicable federal, state, or local governmental standards and the act or omission does not constitute willful misconduct or gross negligence. As used in this subdivision, "injury" includes the residual effects of the vaccine or other immunizing agent. It is the intent of the Legislature in adding this subdivision to affect only the liability of private, nonprofit volunteer agencies and their members that are not health facilities as defined in Section 1250.

(g) Nothing in this section shall be construed to require physical presence of a directing or supervising physician, or the examination by a physician of persons to be tested or immunized.

CHAPTER 454

An act to amend Section 30233 of the Public Resources Code, relating to recreational facilities.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 30233 of the Public Resources Code is amended to read:

30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the

wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource-dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

CHAPTER 455

An act to amend Sections 18211, 18274 and 18314.5 of the Financial Code, relating to financial institutions.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 18211 of the Financial Code is amended to read:

18211. No charge shall be collected unless a loan is made, except that an industrial loan company may charge, contract for, and receive a fee in connection with making a written commitment to make a loan, secured by real property having a face amount in excess of ten thousand dollars ($10,000) whether or not the loan is consummated, or in connection with the purchase, sale, or origination of a lease as lessor. Any fee with respect to a consumer loan shall be limited to the actual expenses incurred in connection with making a written commitment therefor.

SEC. 2. Section 18274 of the Financial Code is amended to read:

18274. The principal balances of loans made, or obligations purchased, by an industrial loan company that has investment certificates outstanding, which loans or obligations are secured by unimproved real property, shall not in the aggregate exceed 10 percent of the company's unimpaired capital and surplus not available for dividends as provided in Section 18319 unless the commissioner consents to the taking of collateral to protect an existing jeopardized obligation.

SEC. 3. Section 18314.5 of the Financial Code is amended to read:

18314.5. An industrial loan company shall not hold lease obligations of any one person as primary obligor in an aggregate amount due in excess of 10 percent of the unimpaired capital and surplus of the company not available for dividends as provided in Section 18319.

CHAPTER 456

An act to amend Sections 44010, 44011, 44015, 44050, and 44060 of the Health and Safety Code, and to amend Section 11713.1 of the Vehicle Code, relating to air pollution.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 44010 of the Health and Safety Code is amended to read:

44010. The motor vehicle inspection program shall provide for privately operated vehicle test stations and repair stations which shall be authorized to issue certificates of compliance or noncompliance, as defined in Section 9889.18 of the Business and Professions Code, to vehicles which meet the requirements specified in this chapter.

SEC. 2. Section 44011 of the Health and Safety Code is amended to read:

44011. All motor vehicles powered by internal combustion engines which are registered and garaged within a nonattainment area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(a) Every motorcycle, every heavy-duty vehicle, every diesel-powered vehicle, and every liquefied petroleum gas powered vehicle until the department determines that the inclusion of those vehicles is technologically and economically feasible.

(b) Any motor vehicle which has been issued a certificate of compliance or noncompliance or a waiver upon a change of ownership or initial registration in this state during the preceding 12 months.

(c) Any motor vehicle over 20 years old, as determined by the department.

(d) Any other vehicle which the department determines would present prohibitive inspection or repair problems.

SEC. 3. Section 44015 of the Health and Safety Code is amended to read:

44015. (a) A licensed test station or a licensed repair station shall issue a certificate of compliance or noncompliance signed by a licensed inspector for a vehicle if it meets the requirements of Section 44012.

(b) A licensed repair station shall issue a certificate of compliance or noncompliance signed by a licensed inspector for a vehicle if a low-emissions service and adjustment is performed, measurements of the emissions before and after the low-emissions service and adjustment are made and recorded by a qualified repair mechanic, and the mechanic certifies that the emission reductions achieved are the maximum that can be obtained without exceeding the cost limitation established by the department.

(c) With the approval of the department, a certificate of compliance or noncompliance may be issued by a licensed repair station when a qualified repair mechanic certifies that no adjustment or repair can be made that will reduce emissions from the inspected vehicle without exceeding the cost limitation established by the department.

(d) A certificate of compliance or noncompliance shall be valid for 90 days.

(e) A test may be made at any time within three months prior to the date otherwise required.

SEC. 4. Section 44050 of the Health and Safety Code is amended to read:

44050. (a) Any person who violates any provision of this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, is liable for a civil penalty not to exceed five hundred dollars ($500) for each day in which each violation occurs. Any action to recover civil penalties shall be brought by the Attorney General in the name of the state on behalf of the department, or may be brought by any district attorney, city attorney, or attorney for a district.

(b) The penalties specified in subdivision (a) do not apply to an owner or operator of a motor vehicle, except an owner or operator who (1) obtains, or who attempts to obtain, a certificate of compliance or noncompliance without complying with the requirements of Section 44015 or (2) registers a motor vehicle at an address other than the owner's or operator's residence address for the purpose of avoiding the requirements of this chapter.

SEC. 5. Section 44060 of the Health and Safety Code is amended to read:

44060. The department shall prescribe the form of the certificate of compliance or noncompliance. The department shall charge a fee to licensed test stations and repair stations for the issuance by the department to the stations of certificate of compliance or noncompliance forms. The fee charged shall be calculated to allow funding of the department and shall not exceed the amount reasonably necessary to fund the operation of the motor vehicle inspection program, including all responsibilities, requirements, and obligations imposed upon the department by this chapter, which are not otherwise recoverable by license fees pursuant to Section 44034. In no event shall the fee for each certificate of compliance or noncompliance exceed six dollars ($6). It is the intent of the Legislature that the Vehicle Inspection Fund shall maintain a prudent surplus. If the surplus exceeds reasonable costs of administration of the program, the department shall, by regulation, prescribe a lower fee for the certificate of compliance or noncompliance.

SEC. 6. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except sales tax, vehicle

registration fees, certificate of compliance or noncompliance fees not exceeding twenty dollars ($20) pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(c) To exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge.

For purposes of this subdivision, a newspaper display advertisement is any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) To represent the dealer documentary preparation charge as a governmental fee.

(e) To fail to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed twenty dollars ($20) while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 457

An act to amend Section 5563.5 of, and to add Section 5003.01 to, the Public Resources Code, relating to parks and recreation.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 5003.01 is added to the Public Resources Code, to read:

5003.01. The Legislature hereby finds and declares that the East Bay Regional Park District is contemplating the development of extensive new marina facilities at the Robert W. Crown Memorial State Beach and that the 20-year term authorized by law would be insufficient to enable any concessionaire to amortize the type and scale of improvements that the district would require the concessionaire to make at the marina.

Accordingly, pursuant to subdivision (a) of Section 5080.18, the term of a concession contract entered into by the East Bay Regional Park District for the development and operation of a new marina at the Robert W. Crown Memorial State Beach may be for a period not exceeding 50 years; provided, that the contract shall provide that the rental rates be reviewed and adjusted every five years to reflect market rates and conditions prevailing in the area in which the concession is located.

SEC. 2. Section 5563.5 of the Public Resources Code is amended to read:

5563.5. Notwithstanding Sections 5540 and 5563, the Board of Directors of the Midpeninsula Regional Open-Space District may, and the Board of Directors of the East Bay Regional Park District with respect to the Alameda Creek Quarries located within the County of Alameda may, without obtaining the consent of the voters, lease real property for a term not exceeding 50 years. A lease entered into pursuant to this section shall be authorized by a resolution adopted by the affirmative votes of at least two-thirds of the members of the board, upon making an express finding that the purpose of the lease is for park or open-space purposes, or for an historic preservation, recreation, or agricultural purpose which is compatible with public use and enjoyment of the real property.

CHAPTER 458

An act to amend Section 2502 of the Vehicle Code, relating to hazardous material.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 2502 of the Vehicle Code is amended to read:

2502. (a) Each application for a new or renewal license shall be accompanied by a fee of ten dollars ($10) for a new license or five dollars ($5) for a renewal license. This subdivision shall not apply to the transportation of hazardous material.

(b) Except as provided in subdivision (c), each application for a new or renewal license to transport hazardous material shall be accompanied by a fee of not to exceed one hundred dollars ($100) for a new license and not to exceed seventy-five dollars ($75) for a renewal license.

(c) The fee for an application for a new or renewal license to transport hazardous material shall be waived for hazardous waste haulers registered with the State Department of Health Services pursuant to Section 25163 of the Health and Safety Code.

A hazardous waste hauler issued a license pursuant to this subdivision may haul hazardous materials which are not hazardous wastes if the vehicle has been inspected by the California Highway Patrol pursuant to Section 25168.1 of the Health and Safety Code and certified by the State Department of Health Services pursuant to Section 25168.3 of the Health and Safety Code.

(d) Each application shall be made upon a form furnished by the commissioner. It shall contain such information concerning the applicant's background and experience as the commissioner may prescribe, in addition to other information required by law.

(e) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

CHAPTER 459

An act to amend Sections 11925 and 12036 of, and to repeal and add Article 4 (commencing with Section 12041) to Chapter 6 of Division 6 of, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 11925 of the Food and Agricultural Code is amended to read:

11925. Except as provided in Section 11512.5, any person whose registration has been revoked, suspended, or refused may appeal to

the director within 10 days for a hearing and the director may sustain, reverse, or modify the revocation, suspension, or refusal.

SEC. 2. Section 12036 of the Food and Agricultural Code is amended to read:

12036. Except as provided in Section 11512.5, any person whose registration has been revoked, suspended, or refused may appeal to the director within 10 days for a hearing on the revocation, suspension, or refusal and the director may sustain, reverse, or modify the revocation, suspension, or refusal.

SEC. 3. Article 4 (commencing with Section 12041) of Chapter 6 of Division 6 of the Food and Agricultural Code, is repealed.

SEC. 4. Article 4 (commencing with Section 12041) is added to Chapter 6 of Division 6 of the Food and Agricultural Code, to read:

Article 4. Agricultural Pest Control Advisory Committee

12041. The Agricultural Pest Control Advisory Committee, which was established by Chapter 1276 of the Statutes of 1971, is hereby abolished.

12042. There is in the department an Agricultural Pest Control Advisory Committee, appointed by the director, consisting of the following members:

(a) One member representing agricultural pest control advisers.

(b) One member representing agricultural pest control businesses.

(c) One member representing pest control maintenance gardeners.

(d) One member representing pest control aircraft pilots.

(e) One member representing pesticide dealers.

(f) One member representing commercial applicator certificate holders.

(g) One member representing registrants, as defined in Section 12755.

(h) One member representing the California Agricultural Commissioners Association.

(i) One member representing the University of California, Cooperative Extension, Division of Agricultural Sciences who is nominated by the board of regents and who specializes in pest management.

(j) One member representing the Board of Trustees of the California State University system.

(k) One member representing the Board of Governors of the California Community College system.

(*l*) One member representing producers, as defined in Section 56110.

(m) One member representing the general public.

12043. The public member shall be appointed to the committee by the director from nominees recommended by the committee. The public member 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.

12044. It is hereby declared, as a matter of legislative determination, that members appointed to the Agricultural Pest Control Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to the committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

12045. Except as provided in Section 12046, the term of office of the members of the committee is three years. Vacancies shall be filled for the unexpired term.

12046. Initial appointments to the committee shall be made as follows:

(a) Representatives for the public, the California Community College system, the State University system, and the pest control maintenance gardeners shall be appointed for one year.

(b) Representatives for pest control aircraft pilots, commercial applicator certificate holders, pesticide dealers, registrants as defined in Section 12755, and the California Agricultural Commissioners Association shall be appointed for two years.

(c) Representatives for agricultural pest control advisers, agricultural pest control businesses, the University of California Extension Service, and producers shall be appointed for three years.

12047. The committee shall be advisory to the director in all matters concerning the licensing, certification, and regulation of persons and firms licensed or certified pursuant to this division, and shall meet on the call of the director.

CHAPTER 460

An act to add and repeal Section 31789.12 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 31789.12 is added to the Government Code, to read:

31789.12. Notwithstanding Section 31789.1, the board may increase the sum payable pursuant to Section 31789.1 to one thousand dollars ($1,000).

This section shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 461

An act to amend Section 33050 of the Education Code, relating to the State Board of Education.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 33050 of the Education Code is amended to read:

33050. (a) The governing board of a school district may, on a districtwide basis or on behalf of one or more of its schools, after a public hearing on the matter, request the State Board of Education to waive all or part of any section of this code, except:

(1) The provisions of Sections 52163, 52165, 52166, 52178, Part 13 (commencing with Section 22000), or Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(2) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

(3) The provisions specified pursuant to Section 52033.

(4) That any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to the provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(5) That the waiver of an advisory committee required by law shall be granted only pursuant to the provisions of Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

(b) Any request for a waiver submitted by the governing board of a school district pursuant to subdivision (a) shall include a written statement as to (1) whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver and (2) the exclusive representative's position regarding the waiver.

CHAPTER 462

An act to add Section 20205.8 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 20205.8 is added to the Government Code, to read:

20205.8. The board and its officers and employees shall discharge their duties with respect to the system solely in the interest of the participants and beneficiaries:

(a) For the exclusive purpose of both of the following:

(1) Providing benefits to members, retired members, and their survivors and beneficiaries.

(2) Defraying reasonable expenses of administering the system.

(b) By investing with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

CHAPTER 463

An act to add and repeal Section 1246.5 to the Penal Code, relating to criminal appeals.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 1246.5 is added to the Penal Code, to read:

1246.5. (a) In criminal cases in which the defendant appeals any court order or judgment, the trial court shall make an inquiry into the financial condition of the defendant. If the court determines that the defendant has the financial ability to pay, in whole or in part, the expense for a transcript ordered by the court to be made, the court shall make an order requiring the defendant to repay the county all or part of the expense, provided that if the court determines that the defendant's income is less than 125% of the median income for the county, it shall make an order that the expense shall be paid out of the county treasury on order of the court.

To determine the financial ability of the defendant to pay transcript costs, the court shall use the standards set forth in paragraph (2) of subdivision (f) of Section 987.8.

(b) A prevailing appellant who was required to pay the costs of transcripts shall be reimbursed by the county for those costs.

This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

CHAPTER 464

An act to amend Section 668.5 of the Code of Civil Procedure, to amend Sections 1457, 1458, and 1531 of the Government Code, and to amend Section 5362 of the Welfare and Institutions Code, relating to courts.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 668.5 of the Code of Civil Procedure is amended to read:

668.5. In those counties where the clerk of the court places individual judgments in the file of actions and either a microfilm copy of the individual judgment is made, or the judgment is entered in the register of actions, or into the court's electronic data-processing system, prior to placement of the judgment in the file of actions, the clerk shall not be required to enter judgments in a judgment book, and the date of filing the judgment with the clerk shall constitute the date of its entry.

SEC. 1.7. Section 1457 of the Government Code is amended to read:

1457. Unless otherwise provided, the official bonds of officers of a county and judicial district shall be approved by the presiding judge of the superior court, recorded in the office of the county recorder, and then filed in the county clerk's office.

SEC. 2. Section 1458 of the Government Code is amended to read:

1458. The bonds of supervisors, treasurers, county clerks, auditors, sheriffs, tax collectors, district attorneys, recorders, assessors, surveyors, superintendents of schools, public administrators, coroners, and constables shall be approved by the presiding judge of the superior court before the bonds can be recorded and filed.

SEC. 3. Section 1531 of the Government Code is amended to read:

1531. The sureties on the bonds of all officers of a county or judicial district named in Section 1458 shall first be approved by the presiding judge of the superior court as is provided for the approval of the bond of their principals, before their principals' bonds may be

recorded and filed.

SEC. 4. Section 5362 of the Welfare and Institutions Code is amended to read:

5362. (a) The clerk of the superior court shall notify each conservator, his or her conservatee and the person in charge of the facility in which the person resides, and the conservatee's attorney, at least 60 days before the termination of the one-year period. If the conservator is a private party, the clerk of the superior court shall also notify the mental health director and the county officer providing conservatorship investigation pursuant to Section 5355, at least 60 days before the termination of the one-year period. Notification shall be given in person or by first-class mail. The notification shall be in substantially the following form:

In the Superior Court of the State of California
for the County of _____

The people of the State of California
Concerning
_____

No.____
Notice of Termination
of Conservatorship

The people of the State of California to _____
_____ :
(conservatee, conservatee's attorney, conservator, and professional person in charge of the facility in which the conservatee resides, county mental health director, and county officer providing conservatorship investigation.)

The one-year conservatorship established for _____ pursuant to Welfare and Institutions Code Section _____ on _____ will terminate on _____. If the conservator, _____, wishes to reestablish conservatorship for another year he or she must petition the court by _____. Subject to a request for a court hearing by jury trial the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator petitions to reestablish conservatorship the conservatee, the professional person in charge of the facility in which he or she resides, the conservatee's attorney, and, if the conservator is a private party, the county mental health director and the county officer providing conservatorship investigation shall be notified. If any of them request it, there shall be a court hearing or a jury trial, whichever is requested, on the issue of whether the conservatee is still gravely disabled and in need of conservatorship. If the private conservator does not petition for reappointment, the county officer providing conservatorship investigation may recommend another conservator. Such a petition shall be considered a petition for reappointment as conservator.

_____
(Signed, Judge of the Superior Court)

(b) Subject to a request for a court hearing or jury trial, the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator does not petition to reestablish conservatorship at or before the termination of the one-year period, the court shall issue a decree terminating conservatorship. The decree shall be sent to the conservator and his or her conservatee by first-class mail and shall be accompanied by a statement of California law as set forth in Section 5368.

CHAPTER 465

An act to amend Section 19617.7 of the Business and Professions Code, relating to horseracing.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 19617.7 of the Business and Professions Code is amended to read:

19617.7. Any association other than a fair conducting a quarter horse racing meeting, except for a mixed breed meeting, shall deduct an additional 0.2 of 1 percent of the total amount handled in its daily conventional and exotic parimutuel pools for quarter horse races.

The board shall designate the officially recognized organization representing quarter horse horsemen to administer this section and to distribute amounts deducted under this section. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total amount deducted. The organization may establish guidelines for distributions in accordance with the requirements of this section.

After deduction of the percentage for administrative expenses, the amounts deducted under this section shall be distributed as follows:

(a) An amount equal to 10 percent of the second place share of the purse won by a California-bred quarter horse at any meeting held in the state, other than a fair or mixed breed meeting, shall be paid to the breeder of the animal.

(b) The amount remaining after the payments are made under subdivision (a) shall be used for the payment of quarter horse stallion awards as provided in this subdivision.

At the end of the calendar year, stallion awards shall be made on a prorated percentage based on the win and second place shares of the purse, exclusive of all purse money not derived from the parimutuel pools, to the owners of sires of quarter horses who have been officially placed first or second in one or more races other than maiden or claiming races at a quarter horse meeting, or in a

nonmaiden claiming race at a quarter horse meeting in the central or southern zone when the total purse is equal to or exceeds 85 percent of the daily average purse distributed at that meeting during the prior year, or in a nonmaiden claiming race at a quarter horse meeting in the northern zone when the total purse is equal to or exceeds 115 percent of the daily average purse distributed at that meeting during the prior year, or in any quarter horse stakes race run at the California Exposition and State Fair, or at any county or district agricultural association fair or mixed meeting.

Stallion awards shall not be made to the owner of a sire which has been out of the state for breeding purposes during the calendar year.

Stallion awards shall not be made for any race run outside the State of California.

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 association to fund the deficiencies.

CHAPTER 466

An act to amend Section 31521 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 31521 of the Government Code is amended to read:

31521. The board of supervisors may provide that the fourth and fifth members, and in counties having a board consisting of nine members, the fourth, fifth, sixth, eighth, and ninth members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of such board of investment, shall receive compensation at a rate of not more than one hundred dollars ($100) a meeting or meeting of a committee authorized by the entire board, for not more than three meetings per month, together with actual and necessary expenses for all members of the board.

CHAPTER 467

An act to amend Sections 362, 366.2, 11462, and 16507.5 of, and to repeal Sections 16501.5 and 16502.5 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor July 27, 1983 Filed with
Secretary of State July 28, 1983]

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

SECTION 1. Section 362 of the Welfare and Institutions Code is amended to read:

362. (a) When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court and consistent with subdivision (e) of Section 361.

When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of such minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(4) A home or facility in accordance with the federal Indian Child Welfare Act.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

(c) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parents or guardians may be required, and may be ordered, to participate in child welfare services or services provided by an appropriate agency designated by the court. When a minor is adjudged a dependent

child of the court on the ground that the minor is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency, designated by the court.

(d) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b).

SEC. 2. Section 366.2 of the Welfare and Institutions Code is amended to read:

366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or home-finding agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, 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 nor later than 15 days preceding the date to which the hearing was continued.

(c) At least 16 days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 14 days before the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the foster parents, community care facility, or home-finding agency having the physical custody of the minor at least 14 days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or home-finding agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and

recommendation prior to determining any disposition.

(e) At the review hearing, the court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing such detriment. The failure of the parent or guardian to participate in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself 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 or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing a proceeding pursuant to Section 232 of the Civil Code may be instituted.

SEC. 3. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) For children receiving AFDC-FC under the provisions of this chapter who are placed in group homes, or public child care institutions, as defined in Section 11402.5, there shall be a rate established based on actual allowable costs.

(b) (1) As used in this section, "allowable costs" means: (A) the reasonable cost of, and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation; (B) reasonable cost of administration and operation necessary to provide the items described in paragraph (A); and (C) reasonable activities performed by social workers employed by group home providers which are not otherwise allowable as daily supervision or as the costs of administration.

(2) The director, with the advice and assistance of the counties, shall have the authority to define reasonableness as he determines it to be necessary and appropriate, for paragraph (1) of this subdivision.

(3) Provided the necessary statistics are available or can be reasonably obtained, the Department of Finance shall report to the Legislature on the cost or savings of subdivision (b) (1) by July 1, 1983.

(4) The services specified in subparagraph (C) of paragraph (1) of subdivision (b) will be funded to the extent any general or federal welfare fund savings result from any federal changes in the 1983 federal Budget Act, or if these savings do not materialize, from other federal funds not otherwise appropriated by the Legislature.

(c) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit

organizations shall not be deducted from the cost of providing services pursuant to this section.

(d) During the 1983–84 fiscal year, the department, with the advice and assistance of the counties and the Department of Finance, shall develop and implement a plan whereby AFDC-FC payment rates shall be effectively controlled. Implementation of the rate control method shall be effective not sooner than 30 days after submission of the plan to the Chairman of the Joint Legislative Budget Committee.

(e) The 1983–84 fiscal year payments to group homes shall not exceed the 1982–83 fiscal year payments adjusted for cost of living in accordance with procedures in Section 11453, subject to the availability of funds. This limitation shall not apply to group homes which received noncost-based, scheduled rates during the 1982–83 fiscal year.

(f) The department shall perform an audit at least once every three years beginning October 1, 1982, on all group homes who received funds on behalf of children receiving assistance under the AFDC-FC program.

SEC. 4. Section 16501.5 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 16502.5 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 16507.5 of the Welfare and Institutions Code is amended to read:

16507.5. (a) When a minor is separated or is in the process of being separated from the minor's family under the provisions of a voluntary placement agreement, the county welfare department or a licensed private or public adoption agency social worker shall make any and all reasonable and necessary provisions for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment.

Responsibility for placement and care of the minor shall be with the social worker who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(4) A home or facility in accordance with the federal Indian Child Welfare Act.

(b) If, for a specific child, the social worker has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the child may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided all of the following certification conditions are met:

(1) A preplacement home visit is made by the social worker to determine the suitability of the family home.

(2) The social worker verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The social worker notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor.

If the license is subsequently denied, the child shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 468

An act to amend Sections 830.31 and 832 of the Penal Code, relating to law enforcement.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 830.1 of the Penal Code is amended 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 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under terms and conditions 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, if the primary duty of arson investigators is 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, if the primary duty of any such peace officer is the protection of park and other property of the agency and the preservation of the peace therein.

(c) Members of a community college police department appointed pursuant to Section 72330 of the Education Code, if the primary duty of any such peace officer is the enforcement of the law as prescribed in Section 72330 of the Education Code.

(d) A welfare fraud investigator or inspector, regularly employed and paid as such by a county, if the primary duty of any such peace officer is the enforcement of the provisions of the Welfare and Institutions Code.

(e) A child support investigator or inspector, regularly employed and paid as such by a district attorney's office, if the primary duty of any such peace officer is the enforcement of the provisions of the Welfare and Institutions Code and Section 270.

(f) The coroner and deputy coroners, regularly employed and paid as such, of a county, if 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.

(g) A member of the San Francisco Bay Area Rapid Transit District Police Department appointed pursuant to Section 28767.5 of the Public Utilities Code, if the primary duty of any such peace officer is 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.

(h) Harbor or port 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, if the primary duty of any such peace officer is 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.

(i) Persons designated as a security officer by a municipal utility district pursuant to Section 12820 of the Public Utilities Code, if the primary duty of any such officer is the protection of the properties of the utility district and the protection of the persons thereon.

(j) Persons designated as a security officer by a county water district pursuant to Section 30547 of the Water Code, if the primary duty of any such officer is the protection of the properties of the county water district and the protection of the persons thereon.

SEC. 2. Section 832 of the Penal Code is amended to read:

832. (a) Every person described in this chapter as a peace

officer, shall receive a course of training prescribed by the Commission on Peace Officer Standards and Training. Training in the carrying and use of firearms shall not be required of any peace officer whose employing agency prohibits the use of firearms.

(b) (1) Every such peace officer described in this chapter, within 90 days following the date that he was first employed by any employing agency, shall, prior to the exercise of the powers of a peace officer, have satisfactorily completed the course of training as described in subdivision (a).

(2) Every peace officer described in Section 832.3 shall satisfactorily complete the training required by this section as part of the training and under the limitations set forth in Section 832.3.

(c) Persons described in this chapter as peace officers who have not so satisfactorily completed the courses described in subdivision (a) as specified in subdivision (b), shall not have the powers of a peace officer until they satisfactorily complete such courses.

(d) Any peace officer who on the effective date of this section possesses or is qualified to possess the basic certificate as awarded by the Commission on Peace Officer Standards and Training shall be exempted from the provisions of this section.

SEC. 3. An authorized emergency vehicle used by a peace officer of the Lake Hemet Municipal Water District, who is designated as such pursuant to subdivision (b) of Section 830.31 of the Penal Code, in the performance of his or her duties may display a steady or flashing blue warning light visible from the front, sides, or rear thereof.

CHAPTER 469

An act to amend the heading of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of, and Sections 4525, 4526, 4527, and 4528 of the Government Code, relating to public contracts.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. The heading of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code is amended to read:

CHAPTER 10. CONTRACTS WITH PRIVATE ARCHITECTS, ENGINEERING, AND LAND SURVEYING FIRMS

SEC. 2. Section 4525 of the Government Code is amended to read:

4525. For purposes of this chapter, the following terms shall have

the following meanings:

(1) The term "firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, or land surveying.

(2) The term "agency head" means the secretary, administrator, or head of a department, agency, or bureau of the State of California authorized under the State Contract Act to contract for architectural and engineering services.

(3) The term "architectural, engineering, and land surveying services" includes those professional services of an architectural, engineering, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

SEC. 3. Section 4526 of the Government Code is amended to read:

4526. Notwithstanding any other provision of law, it shall be considered to be the public policy of the State of California and any political subdivision thereof that selecting by an agency head for professional services of private architect, engineering, or land surveying firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Agency heads contracting for private architectural, professional engineering, and land surveying services shall adopt by regulation procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837 of this code.

SEC. 4. Section 4527 of the Government Code is amended to read:

4527. In the procurement of architectural, engineering, and land surveying services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

Statewide announcement of all projects requiring architectural, engineering, or land surveying services shall be made by the agency head through publications of the respective professional societies. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified

to provide the services required.

SEC. 5. Section 4528 of the Government Code is amended to read:

4528. (a) The agency head shall negotiate a contract with the best qualified firm for architectural, engineering, and land surveying services at compensation which the agency head determines is fair and reasonable to the State of California or the political subdivision involved.

(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the State of California or the political subdivision involved, negotiations with that firm shall be formally terminated. The agency head shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head shall terminate negotiations. The agency head shall then undertake negotiations with the third most qualified firm.

(c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.

CHAPTER 470

An act to amend Sections 35103, 35104, 54774.2, 54776.3, 54990, 54993, 56132, and 56133 of the Government Code, relating to local agency formation commissions.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 35103 of the Government Code is amended to read:

35103. A commission may, after giving public notice and holding a hearing, establish a schedule of filing fees for checking the sufficiency of any petition filed with the executive officer. Those fees shall not exceed the estimated reasonable cost of providing that service, or fifty cents ($0.50), whichever is less, for each signature affixed to the petition. A minimum filing fee of not to exceed ten dollars ($10) may be established. These fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5. Any fees so established shall be paid to the executive officer at the time of filing a petition. No petition shall be deemed filed until those fees have been paid.

SEC. 2. Section 35104 of the Government Code is amended to

read:

35104. The commission also may, after giving public notice and holding a hearing, establish a schedule of processing fees for the estimated expenses of the preliminary proceedings to be taken by the commission. Those fees shall not exceed the estimated reasonable cost of providing that service, or one thousand five hundred dollars ($1,500), whichever is less, for each separate change of organization of a city contained in a proposal. These fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5. The processing fee shall be deposited with the executive officer after the filing with the executive officer of any resolution of application by the legislative body of a city or the certification by the executive officer of the sufficiency of a petition. The deposit of the processing fee shall be made within such period as the commission may specify. No further action shall be taken upon any resolution of application or petition until the processing fee is deposited.

SEC. 3. Section 54774.2 of the Government Code is amended to read:

54774.2. If any local agency or county desires amendment or revision of an adopted sphere of influence or urban service area, as defined by Section 35051, the local agency or county, by resolution of its legislative body, may file a request therefor with the executive officer who shall present the same to the commission at its next regular meeting. The commission, upon receipt of that resolution, shall set a time and date for hearing of the request and shall direct the executive officer to give notice of the hearing at the times and in the manner prescribed in Section 54774.1. At the hearing, the commission shall hear any interested persons and consider the requests for amendment or revision of the sphere of influence or urban service area. The commission may continue the hearing from time to time not to exceed 70 days from the date specified in the notice of hearing. At the conclusion of the hearing the commission shall deny or approve, in whole or in part, the request.

Any local agency or county making a request pursuant to this section shall reimburse the commission for the actual and direct costs incurred by the commission in complying with this section. However, the commission may in its discretion waive such reimbursements if it finds that the request for amendment or revision of a sphere of influence or urban service area can be considered and studied as a part of the periodic review of spheres of influence required by Section 54774.

SEC. 4. Section 54776.3 of the Government Code is amended to read:

54776.3. Notwithstanding the provisions of Section 6103, the commission may, after giving public notice and holding a hearing, establish a schedule of fees for filing and processing applications filed with the commission pursuant to Section 54791. Those fees shall not exceed those charged pursuant to Sections 35103, 35104, 56132, and

56133. When a special district files an application for extension of its powers, a commission may establish a schedule of fees, for costs incurred pursuant to that application. Those fees shall not exceed the estimated reasonable cost of providing the service, or one thousand five hundred dollars ($1,500), whichever is less. These fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

SEC. 5. Section 54990 of the Government Code is amended to read:

54990. Notwithstanding any other provision of law, when a local agency charges fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings under the Municipal Organization Act, Part 1 (commencing with Section 35000) of Division 2 of Title 4, the Knox-Nisbet Act, Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5, or the District Reorganization Act of 1965, Division 1 (commencing with Section 56000) of Title 6; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 or under any other authority; those fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

SEC. 5.5. Section 54990 of the Government Code is amended to read:

54990. Notwithstanding any other provision of law, when a local agency charges fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Municipal Organization Act, Part 1 (commencing with Section 35000) of Division 2 of Title 4; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Knox-Nisbet Act, Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5, or the District Reorganization Act of 1965, Division 1 (commencing with Section 56000) of Title 6; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 or under any other authority; those fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the

estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

SEC. 6. Section 54993 of the Government Code is amended to read:

54993. This chapter shall apply only to fees and charges as described in Sections 35103, 35104, 54776.3, 54990, 54991, 56132, 56133, 65250, 65551, 65909.5 and 66451.2 of this code, and in Sections 17951, 19132.3 and 19852 of the Health and Safety Code.

SEC. 6.5. Section 54993 of the Government Code is amended to read:

54993. This chapter shall apply only to fees and charges as described in Sections 35103, 35104, 54776.3, 54990, 54991, 56132, 56133, 56291.5, 65250, 65551, 65909.5 and 66451.2 of this code, and in Sections 17951, 19132.3 and 19852 of the Health and Safety Code.

SEC. 7. Section 56132 of the Government Code is amended to read:

56132. Notwithstanding the provisions of Section 6103, a commission may, after giving public notice and holding a hearing, establish a schedule of filing fees for checking the sufficiency of any petition filed with the executive officer. Those fees shall not exceed the estimated reasonable cost of providing that service, or fifty cents ($0.50), whichever is less, for each signature affixed to the petition. A minimum filing fee of not to exceed ten dollars ($10) may be established. These fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5. Any fee so established shall be paid to the executive officer at the time of filing of the petition. No petition shall be deemed filed until those fees have been paid.

SEC. 8. Section 56133 of the Government Code is amended to read:

56133. Notwithstanding the provisions of Section 6103, the commission also may establish a schedule of processing fees for the estimated expenses of the preliminary proceedings to be taken by the commission and any reorganization committee. Those fees shall not exceed the estimated reasonable cost of providing that service, or one thousand five hundred dollars ($1,500), whichever is less, for each separate change of organization contained in a proposal. These fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5. The processing fee shall be deposited with the executive officer after the filing with the executive officer of any application by a legislative body for a change of organization, or the certification by the executive officer of the sufficiency of a petition. The deposit shall be made within such period as the commission may specify. No further action shall be taken upon any such application or petition until the processing fee is so deposited.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill 445 are both chaptered and become effective January 1, 1984,

both bills amend Section 54990 of the Government Code, and this bill is chaptered after Senate Bill 445, that the amendments to Section 54990 proposed by both bills be given effect and incorporated in Section 54990 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and Senate Bill 445 are both chaptered and become effective January 1, 1984, both amend Section 54990, and this bill is chaptered after Senate Bill 445, in which case Section 5 of this act shall not become operative.

SEC. 10. It is the intent of the Legislature, if this bill and Senate Bill 445 are both chaptered and become effective January 1, 1984, both bills amend Section 54993 of the Government Code, and this bill is chaptered after Senate Bill 445, that the amendments to Section 54993 proposed by both bills be given effect and incorporated in Section 54993 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Senate Bill 445 are both chaptered and become effective January 1, 1984, both amend Section 54993, and this bill is chaptered after Senate Bill 445, in which case Section 6 of this act shall not become operative.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 471

An act to amend Section 66801 of the Government Code, relating to transportation.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 66801 of the Government Code is amended to read:

66801. The provisions of this interstate compact executed between the States of Nevada and California are as follows:

TAHOE REGIONAL PLANNING COMPACT

ARTICLE I. FINDINGS AND DECLARATIONS OF POLICY

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region

are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the Federal Government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the Federal Government should assist the states in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its man-made environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe Counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional Plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of Article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable state law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(*l*) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas of each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III. ORGANIZATION

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe Counties and one member appointed by the Board of Supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the governor of Nevada, the Secretary of State of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. Except for the secretary of state and the director of the state department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other

members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that state the Governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1) (A), (1) (B), (2) (A) or (2) (B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interest in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than $1,000.

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than $1,000.

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 month; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met

in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the Secretary of State and Director of the State Department of Conservation and Natural Resources of Nevada and the member appointed pursuant to subdivision (a) (2) (C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be opened to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as the "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date, and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) Four of the members of the governing body from each state constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required to take action. If there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the state in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the state in which the project is located and at least nine members of the

entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the Director of the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Division of Environmental Protection in the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed. The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own

members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be opened to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. PERSONNEL

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. PLANNING

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the

planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision. If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment, the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the States of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and include all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to, an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(a) To reduce the dependency on the automobile by making more effective use of existing transportation modes and of public transit, in order to move people and goods within the region and

(b) To reduce to the extent feasible air pollution which is caused by motor vehicles.

Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the States of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek

to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant

information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. AGENCY'S POWERS

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may

be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate such plan.

The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the states of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calender years 1980, 1981, and 1982 no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during calendar year 1978. For the period of January through April, 1983 building permits authorizing the construction of no more than ⅓ of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an

apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during calender year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	252
2. Placer County	278
3. Carson City	0
4. Douglas County	339
5. Washoe County	739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983 building permits authorizing the construction of no more than ⅓ the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	64,324
2. Placer County	23,000
3. Carson City	0
4. Douglas County	57,354
5. Washoe County	50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluence under the Clean Water Act, 33 U.S.C. S1251 et seq., and the applicable state law for control of water pollution; or

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District #1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluence for which they were originally designed which is 3.0 mgd. Such modification or alteration is not a "project"; is not subject to the requirements of Article VII; and does not require a permit from the agency. Before commencing such modification or alternative, however, the district

shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should, or should not, be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the States of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the the Tahoe Regional Planning agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date. The area within any structure housing gaming under a non-restricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also

requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by Article VI (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraphs (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to the public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which are used for gaming by more than the product of the total base area as defined below in square feet existing on or approved before August 4, 1980, multiplied by fifteen

percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by Article VI (g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the stucture; and

(E) The base area as defined in paragraph (f) (3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel or real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(6) The provisions of this subdivision do not apply to any legal

proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(*l*) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000. Any such person is subject to an additional civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the Legislative Auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued

by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. ENVIRONMENTAL IMPACT STATEMENTS

(a) The Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal,

state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. FINANCES

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion $75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay $18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay $12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1, of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the states of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. TRANSPORTATION DISTRICT

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer;

(2) One member of the city council of the City of South Lake Tahoe;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County;

(4) One member of the board of supervisors of Carson City;

(5) The director of the California Department of Transportation; and

(6) The director of the department of transportation of the State of Nevada.

Any director may designate an alternate.

(c) The vote of at least five of the directors must agree to take action. If at least five votes in favor of an action are not cast, an action of rejections shall be deemed to have been taken.

(d) The Tahoe transportation district may by resolution establish procedures for the adoption of its budgets, the appropriation of its money and the carrying on of its other financial activities. These procedures must conform insofar as is practicable to the procedures for financial administration of the State of California or the State of Nevada or one or more of the local governments in the region.

(e) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Acquire upon mutually agreeable terms any public transportation system or facility owned by a county, city or special purpose district or any privately owned transportation system or facility within the region.

(3) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(4) Contract with private companies to provide supplementary transportation or provide any of the services needed in operating a system of transportation for the region.

(5) Fix the rates and charges for transit services provided pursuant to this subdivision.

(6) Issue revenue bonds and other evidence of indebtedness.

(7) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way. The district is prohibited from imposing an ad valorem tax, a tax measured by gross or net receipts on business, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices. Any such proposition must be submitted to the voters of the district and shall become effective upon approval of a majority of the voters voting on the proposition. The revenues from any such tax must be used for the services for which it was imposed, and for no other purpose.

(8) Provide service from inside the region to convenient airport,

railroad and interstate bus terminals without regard to the boundaries of the region.

(f) The Legislatures of the States of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. MISCELLANEOUS

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriative water right.

CHAPTER 472

An act to add Section 614.5 to the Code of Civil Procedure, and to add Section 1138.5 to the Penal Code, relating to trials.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 614.5 is added to the Code of Civil Procedure, to read:

614.5. Except for good cause shown, the judge in his or her discretion need not be present in the court while testimony previously received in evidence is read to the jury.

This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

SEC. 2. Section 1138.5 is added to the Penal Code, to read:

1138.5. Except for good cause shown, the judge in his or her discretion need not be present in the court while testimony previously received in evidence is read to the jury.

This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

CHAPTER 473

An act to amend Section 12765 of the Insurance Code, relating to insurance.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 12765 of the Insurance Code is amended to read:

12765. Notwithstanding the provisions of Section 12760 or any other provision of this code, the waiver or forgiveness of a marketing fee otherwise payable by a franchised real estate licensee under the terms of its franchise agreement shall not be unlawful where pursuant to the franchise agreement such waiver or forgiveness occurs in the event the franchisee markets or sells a home protection contract issued by the franchisor or its parent, subsidiary or affiliate and the following disclosure statement is presented in writing to the person offered such contracts, at the time the contract is offered:

"Your _____ agent offers a home protection
(company)
contract on an exclusive basis. If you should purchase this coverage, the agent will (a) receive consideration in the amount of $_____ or (b) will not have to pay a marketing fee in the amount of $_____. Other companies may offer similar coverage which cannot be offered by this agent. You should review the cost and terms of coverage, other offerings, and your need for home protection before you buy."

The person offered such contracts shall acknowledge receipt of the disclosure by affixing his or her signature or initials to the document

containing the disclosure.

This section shall only apply to the waiver or forgiveness of a marketing fee otherwise payable by a franchised real estate licensee under the terms of a franchise agreement where, as of July 1, 1981, the franchise agreement form provided for the waiver or forgiveness of a marketing fee in the event the franchisee markets or sells a home protection contract issued by the franchisor or its parent, subsidiary or affiliate.

This section shall remain in effect until September 1, 1985, and as of that date is repealed.

CHAPTER 474

An act to add Section 1721 to the Civil Code, relating to vandalism.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 1721 is added to the Civil Code, to read:

1721. In an action for the intentional and malicious destruction of real or personal property at a site where substantial improvements to real property are under construction, upon judgment in favor of the plaintiff, the court may, in its discretion, award the plaintiff an amount not to exceed three times the amount of actual damages, and may award reasonable attorney's fees.

CHAPTER 475

An act to add Section 21222.72 to the Government Code, relating to public employees.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 21222.72 is added to the Government Code, to read:

21222.72. (a) Section 21222.7 shall apply to any contracting agency which makes an election pursuant to subdivision (b).

(b) Subdivision (a) shall not apply to any contracting agency unless and until the contracting agency elects to be subject to subdivision (a) by amendment to its contract in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1984, by express provision in the contract making the

contracting agency subject to the provisions of subdivision (a).

CHAPTER 476

An act to amend Section 4213 of the Civil Code, relating to marriage.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 4213 of the Civil Code is amended to read:

4213. (a) When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife they may without a license, be married by any person authorized to solemnize a marriage under Sections 4205, 4205.1, and 4205.5, without the necessity of first obtaining health certificates. Except as provided in Section 4213.1, an authorization for the performance of a marriage pursuant to this section shall be issued by the county clerk, the clerk of the court, or a judge in private chambers, upon the personal appearance of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code. Any authorization issued pursuant to this section shall be valid only for a period of 90 days after its issuance and may only be used in the county in which it is issued. The authorization shall be presented to the person performing the ceremony. Upon performance of the ceremony, the certificate of marriage shall be filled out by the parties to the marriage and authenticated by the person performing the ceremony. The certificate shall be filed by the person performing the ceremony with the office of the county clerk in the county in which the authorization was issued within four days after the performance of the ceremony. Except as provided in Section 4213.2, the county clerk shall maintain the certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause.

Upon performance of the ceremony, the person performing the ceremony shall give a copy of the confidential marriage certificate to the parties who were married. The person performing the ceremony shall also provide the parties who were married with an application for a certified copy of the confidential marriage certificate which shall be filled out by the parties and sent by the person performing the marriage to the county clerk.

The form of the authorization and of the certificate of marriage, which shall be incorporated in one document, shall be prescribed by the State Registrar of Vital Statistics. The form shall be designed in

a manner such that the parties to be married must declare or affirm that they meet all of the requirements of this section.

(b) In addition to those persons enumerated in subdivision (a), an authorization for the performance of a marriage pursuant to this section may also be issued by any other person authorized by law to administer oaths, upon the personal appearance of the parties. The county clerk shall provide an authorization form for the performance of a marriage upon the request of any person so authorized and his or her payment of the fees specified in Sections 26840.1 and 26840.8 of the Government Code. The parties shall reimburse the person authorizing the marriage for the amount of the fees.

(c) The county clerk shall, not less than quarterly, transmit copies of all confidential marriage certificates filed after January 1, 1982, to the State Registrar of Vital Statistics. The registrar may destroy the copies so transmitted after they have been indexed. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this section, but shall not disclose the date of such a marriage.

(d) The county clerk may conduct a search for a confidential marriage certificate for the purpose of confirming the existence of a marriage; however, the date of the marriage and any other information contained in the certificate shall not be disclosed except upon order of the superior court.

(e) A party to a confidential marriage may obtain a certified copy of the confidential marriage certificate from the county clerk of the county in which the certificate is filed in any of the following ways:

(1) By submitting the application for a certified copy of the confidential marriage certificate provided to the parties at the time of the marriage.

(2) By personally appearing before a notary public or at the county clerk's office in his or her county of residence, producing proper identification, obtaining a certificate attesting to his or her identity from the notary public or county clerk, and transmitting that certificate, together with a request for the certified copy of the confidential marriage certificate, to the county clerk of the county with which the certificate is filed.

(3) By personally appearing at the county clerk's office where the certificate is filed and producing proper identification.

Copies of a confidential marriage certificate may be issued to the parties to such a marriage upon the payment of a fee equivalent to that charged for copies of a certificate of marriage.

(f) In the event that an authorization furnished pursuant to this section is lost, damaged, or destroyed after the performance of the marriage and before it is filed, the county clerk may issue a replacement upon the payment of a fee of five dollars ($5).

CHAPTER 477

An act to amend Sections 226 and 226.9 of, and to add Section 227.5 to, the Civil Code, relating to adoption.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 226 of the Civil Code is amended to read:

226. Any person desiring to adopt a child may for that purpose petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Services at Sacramento in writing of the pendency of the action, of any subsequent action taken, and of the date on which an interlocutory decree has become a final decree of adoption. The notification shall not be required where the petition is by a stepparent, where one natural or adoptive parent retains his or her custody and control of the child. In all cases in which consent is required, except in the case of an adoption by a stepparent where one natural or adoptive parent retains his or her custody and control of the child, unless an agency licensed by the State Department of Social Services to find homes for children and place children in homes for adoption joins in the petition for adoption, the petition shall contain an allegation that the petitioners will file promptly with the department or the county adoption agency information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition so filed shall not, however, affect the jurisdiction of the court to proceed, nor shall it have heretofore affected the jurisdiction of any court to have proceeded, upon the petition omitting the allegation, in any manner provided in this chapter or otherwise, nor shall the omission have affected or affect the validity of any decree of adoption or other order heretofore or hereafter made by any court with respect to a petition omitting the allegation.

The caption of the petition for adoption of a minor shall contain the name or names of the petitioners but shall not contain the name of the minor. The petition shall contain the sex and date of birth of the minor. The name that the minor had prior to adoption shall appear in the petition or, in the case where a licensed adoption agency joins in the petition, the name may appear in the joinder signed by the adoption agency. The decree of adoption shall contain the adopted name of the minor but shall not contain the name that the minor had prior to adoption.

SEC. 2. Section 226.9 of the Civil Code is amended to read:

226.9. Notwithstanding any other provisions of this chapter, in case of an adoption of a child by a stepparent where one natural or adoptive parent retains his or her custody and control of the child,

the consent of either or both parents must be signed in the presence of a county clerk, probation officer, or county welfare department staff member of any county of this state and the county clerk, probation officer, or county welfare department staff member before whom the consent is signed shall immediately file the consent with the clerk of the superior court of the county where the petition is filed and the clerk shall immediately notify the probation officer or, at the option of the board of supervisors, the county welfare department of the same county.

If the father or mother of a child to be adopted is outside the State of California at the time of signing consent, his or her consent may be signed before a notary, or other person authorized to perform notarial acts.

The consent, when reciting that the person giving it is entitled to sole custody of the minor child, shall, when duly acknowledged before the county clerk, probation officer, or county welfare department staff member be prima facie evidence of the right of the person making it to the sole custody of the child and that person's sole right to consent.

A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and the consent shall not be subject to revocation by reason of the minority.

SEC. 3. Section 227.5 is added to the Civil Code, to read:

227.5. A stepparent adopting a child pursuant to this chapter shall be liable for all reasonable costs incurred in connection with the investigation required by Section 227a, up to a maximum of one hundred dollars ($100). The probation officer or county welfare department may defer, waive, or reduce the fee for costs when such a payment would cause economic hardship to the adoptive parent which would be detrimental to the welfare of the adoptive child.

CHAPTER 478

An act to amend Sections 33753, 33760.5, 33775, 33776, 34290, 34355, 37912, and 52053.5 of the Health and Safety Code, relating to housing and community redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. 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, and the making of mortgage loans to purchasers of newly constructed or existing residences located in targeted areas as provided in Section 33760.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any other 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 other than officers provided for by Article VI of the California Constitution, and no employee or member of the redevelopment agency, shall be eligible to be a participating party under the provisions of this chapter. If any elected officer of any political subdivision of the state participates in deliberations or votes on a financing plan, redevelopment plan, or bond issue, that person shall not be eligible to be a participating party for bonds issued pursuant to those plans or issues.

(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; and also means the acquisition of substandard residences for purposes of repairs and improvements where the cost of such repairs and improvements equals or exceeds 25 percent of the cost of the

acquisition. 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. "Residential construction" also means the improvement of residences as provided in subdivision (h).

(j) (1) "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.

(2) "Residence" also means residential hotels in which not less than one-half of the occupied dwelling units are occupied on a nontransient basis. A dwelling unit shall be deemed to be used on a nontransient basis if the term of the tenancy is one month or longer or if the tenant has resided in the unit for more than 30 days. In a residential hotel, individual dwelling units shall lack either cooking facilities or individual sanitary facilities, or both. However, for purposes of this paragraph, a residential hotel does not include dormitories, fraternity and sorority houses, hospitals, sanitariums, rest homes, or trailer parks and courts.

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 September 30, 1980, 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; provided that if the long-term permanent financing is in excess of five million dollars ($5,000,000) on any one project from all financing sources, including conventional and tax-exempt financing, a redevelopment agency or community development commission shall not provide such long-term permanent financing unless such agency or commission adopted a resolution before January 1, 1981, officially approving and authorizing the sale of revenue bonds to provide such long-term permanent financing, and the bonds were sold and delivered before March 1, 1981; 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 September 30, 1980, 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 by Chapter 1331 of the Statutes of 1980.

"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.

(m) "Target areas" has the same meaning as in Section 103A of the Federal Internal Revenue Code of 1954, as amended.

SEC. 2. Section 33760.5 of the Health and Safety Code is amended 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 additionally provide financing for residential construction of multifamily rental units outside of a redevelopment project area 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.

(c) Not less than 20 percent (15 percent in target areas) of the units in each project financed pursuant to this section shall be occupied by, or made available to, individuals of low and moderate income, as defined in Section 103(b) (12) (C) of the Internal Revenue Code of 1954 for the period required by Section 103(b) (4) (A) of the Internal Revenue Code of 1954.

(d) Not less than one-half of the low and moderate income units shall be occupied by, or made available to, very low-income households, as defined in Section 50105.

(e) The provisions of subdivision (d) shall apply for the period the provisions of subdivision (c) apply to a project financed pursuant to this section. However, in the event an agency finds and determines that federal rent subsidies are unavailable to a project financed pursuant to this section, as of the date revenue bonds are authorized pursuant to Section 33776, or on any subsequent date, for the project, the requirements of this subdivision and subdivision (d) shall not apply.

(f) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 3. 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 the 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 the 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 note or renewal thereof shall mature at a time not later than five 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 the bonds for registration.

SEC. 4. Section 33776 of the Health and Safety Code is amended to read:

33776. The revenue bonds may be issued as serial bonds or as term bonds, or the redevelopment agency, in its discretion, may issue revenue bonds of both types. The revenue bonds shall be authorized by resolution of the agency and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates of issuance, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption as the resolution or resolutions of the redevelopment agency may provide. The bonds may be sold at either a public or private sale and for such prices as the agency shall determine. Pending preparation of the definitive bonds, the agency may issue interim receipts, certificates, or temporary bonds, which shall be exchanged for such definitive bonds.

SEC. 5. Section 34290 of the Health and Safety Code is amended to read:

34290. (a) As an alternative to the appointment of commissioners of the authority, the governing body of any county or city, at the time of the adoption of a resolution pursuant to Section 34240 or at any time thereafter, may declare itself to be the commissioners of the authority, in which case, all the rights, powers, duties, privileges and immunities, vested by this chapter in the commissioners of an authority, except as otherwise provided in this article, shall be vested in the governing body.

(b) If the governing body of any county or city has declared itself to be the commissioners of the authority, the governing body shall also appoint two tenants of the authority as commissioners if the authority has tenants, or within one year after the authority first does

have tenants. One tenant commissioner shall be over 62 years of age if the authority has tenants over that age. Tenant commissioners appointed pursuant to this subdivision shall serve, and their successors shall be appointed, as provided in Section 34272.

(c) As an alternative to appointment of tenants of the authority as commissioners of the authority pursuant to subdivision (b), if a housing commission is created as provided in Section 34291, the governing body may make tenant appointments pursuant to subdivision (b) to the commission rather than to the authority. In communities where the housing commission also serves as the community redevelopment commission under Section 33201, the governing body may make tenant appointments pursuant to subdivision (b) to that joint commission rather than to the authority.

(d) A tenant commissioner shall have all the rights, powers, duties, privileges, and immunities of any other commissioner.

SEC. 6. Section 34355 of the Health and Safety Code is amended to read:

34355. The bonds may be sold at public or private sale in such manner and upon such terms as may be provided in the resolution authorizing the bonds or by separate resolution.

SEC. 7. Section 37912 of the Health and Safety Code is amended to read:

37912. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Citizen participation" means action by the local agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the original hearing by the legislative body for the purpose of considering selection of the area for designation and determining the method of notice to property owners which will be used pursuant to paragraph (3).

(2) Consultation with an elected or appointed citizen advisory board of a proposed residential rehabilitation area. The members of the board shall include, to the greatest extent feasible, representatives of resident owners, nonresident owners, and resident tenants of both single-family and multiple-family residential structures who are not apartment managers, resident agents, or employees of property owners. The duties of the board are to develop a plan for public improvements and the rules and regulations for implementation of the proposed residential

rehabilitation program.

(3) Dissemination of information relating to the time and location of the hearing, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program by one of the following methods as determined by the legislative body at the public meeting provided in paragraph (1):

(A) At least seven days prior to the original hearing, by mailing to all real property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

(B) After express findings by the legislative body at the public meeting provided in paragraph (1) at lower expense and effective notice at least equal to the mailed and distributed notice provided in subparagraph (A), by a method determined by the legislative body which includes, but is not limited to, publication of such notice pursuant to Section 6066 of the Government Code and posting of such notice at no less than three prominent places within the proposed residential redevelopment area and distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

"Citizen participation" also includes any other means of citizen involvement determined appropriate by the legislative body.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

(c) "Financing" means the lending of moneys or any other thing of value, or the purchase of a loan previously made by a qualified mortgage lender in accordance with rules and regulations of the local agency, for the purpose of residential rehabilitation and may, in the discretion of the legislative body, include any or all of the following:

(1) Refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation by such participating party.

(2) Financing or refinancing the cost incurred by a participating party in acquiring real property for the purpose of residential rehabilitation, including residential infill construction and move-on residences.

(3) Financing the acquisition of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing pursuant to this part.

(d) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(e) "Local agency" means any of the following:

(1) Any city, county, or city and county.

(2) Any redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000).

(3) Any housing authority functioning pursuant to Part 2 (commencing with Section 34200).

(f) "Move-on residence" means a previously occupied single family or multifamily residential structure moved from a location to a vacant lot inside a residential rehabilitation area, or outside a residential rehabilitation area if the single-family or multifamily residential structure is for occupancy for persons or families of low or moderate income.

(g) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(h) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the agency and to aid in financing pursuant to this part 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 authorized by this part. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this part.

(i) "Residential rehabilitation" includes the following:

(1) The construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(A) Defective design and character of physical construction.

(B) Faulty interior arrangement and exterior spacing.

(C) Inadequate provision for ventilation, lighting, and sanitation.

(D) Obsolescence, deterioration, and dilapidation.

(2) Residential infill construction, where authorized by the comprehensive residential rehabilitation financing program.

(3) A qualified home improvement loan, which has the same meaning as Section 103 (A) of the Federal Internal Revenue Code of 1954, as amended by Public Law 96-499, December 5, 1980.

(4) With respect to a move-on residence, where authorized by the comprehensive residential rehabilitation financing program, the acquisition prior to relocation of, movement of, installation of, and rehabilitation of, a move-on residence and purchase of a move-on residence that has previously been rehabilitated with financing

under this part.

(5) Acquisition of real property for the purpose of rehabilitation or residential infill construction pursuant to paragraph (1), (2), or (4), if authorized by the comprehensive residential rehabilitation financing program.

(6) Purchase of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing under this part, if authorized by the comprehensive residential rehabilitation financing program.

(7) Relocation payments required or authorized by Section 37922.2 or by Section 7265.3 of the Government Code in connection with rehabilitation of a residence financed pursuant to this part, or in connection with demolition of a structure for the purpose of making land available for residential infill construction financed pursuant to this part. The cost of relocation payments may be included in the principal amount of a loan made to a participating party or may be paid directly from bond proceeds.

(j) "Residential infill construction" means the construction of new single-family or multifamily residences, excluding commercial or mixed residential and commercial structures and residential hotels, on vacant lots in residential rehabilitation areas, including lots cleared by demolition of an existing structure. However, the cost of demolition of existing structures shall not be eligible for financing under this part, and it is the intent of the Legislature that local agencies shall adopt lending policies and criteria which will encourage rehabilitation of existing residences in residential rehabilitation areas wherever possible.

(k) "Residence" means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood. "Residence" also 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.

"Residence" also includes residential hotels in which not less than one-half of the occupied dwelling units are occupied on a nontransient basis. A dwelling unit shall be deemed to be used on a nontransient basis for such purpose if the term of the tenancy is one month or longer or if the tenant has resided in the unit for more than 30 days. In a residential hotel, individual dwelling units shall lack either cooking facilities or individual sanitary facilities, or both. However, for purposes of this subdivision, a residential hotel does not include dormitories, fraternity and sorority houses, hospitals, sanitariums, rest homes, or trailer parks and courts.

(*l*) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas or rehabilitated pursuant to Section 37922.1,

including any higher standards adopted by the local agency as part of its residential rehabilitation financing program.

(m) "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 local agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(n) "Residential rehabilitation area" means the geographical area designated by the local agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this part.

SEC. 8. Section 52053.5 of the Health and Safety Code is amended to read:

52053.5. Notwithstanding subdivision (b) of Section 52053 or any of the limitations of this part:

(a) 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 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) 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 federal, state, local, or private moneys 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 after the date six months after the date of issuance of the bonds the city and county makes a written finding that this requirement cannot be achieved in spite of the diligent efforts of the city and county and because of the limited availability of subsidy moneys, in which case at least 25 percent of the participants of the program shall be lower-income households.

(B) In no case shall participants of the program be persons and families whose incomes are more than 150 percent of the area medium 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. 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 the necessity are:

In order to carry out necessary programs for housing and to issue bonds for housing purposes, it is essential that this bill go into effect immediately.

CHAPTER 479

An act to amend Sections 70059.7, 74642, 74643, 74644, 74645, and 74647 of the Government Code, relating to courts.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 70059.7 of the Government Code is amended to read:

70059.7. In Santa Barbara County each regular official reporter shall be paid a biweekly salary which shall be one thousand one hundred eighty dollars and seventy-two cents ($1,180.72) which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroners' inquests.

Reporters pro tempore shall be paid at the per diem rate of one hundred eighteen dollars ($118) for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1985, unless ratified by statute by the Legislature prior to that date.

In such a county, the fee required by Section 70053 shall be ten dollars ($10).

In addition to any fee otherwise required, in all contested civil trials wherein the services of a court reporter have been requested by any party to the action, a per diem fee shall be charged to the party requesting such service, or, at the discretion of the court, to the parties on a pro rata basis, for each day of court reporting service or portion thereof, equal to the per diem rate established for pro tempore reporters of the court. If the court assesses the reporter's fee on a pro rata basis, the reporter and fee attached thereto may be waived upon the timely stipulation of all parties. Fees in long-cause civil trials shall be posted with the clerk's office no later than 14 days prior to the date set for master calendar. Fees in short-cause civil trials of one day or less, shall be posted with the clerk's office no later than seven days prior to the date set for the short-cause calendar.

SEC. 2. Section 74642 of the Government Code is amended to read:

74642. Within the South Coast Judicial District there shall be the following officers, attachés, and employees:

Salary

South Coast Municipal Court		Range
1	Account Clerk II	279
1	Account Clerk III	306
1	Assistant Clerk-Admin Officer-SB	399
1	Chief Deputy of the Municipal Court	345
1	Clerk-Admin Officer-SB	447
11	Clerk Typist II	269
10	Clerk Typist III	296
2	Data Entry Operator II	279
9	Municipal Court Clerk	316
3	Official Court Reporter Muni Court Bi-Wkly sal	1,180.72
1	Calendar Coordinator, Muni Court	364
1	Data Entry Operator III	293
2	Probation Officer I–II	361–390
1	Clerk II	269
1	Traffic Referee	1,111.04
1	Municipal Court Clerk (part-time)	316

Marshal-South Coast Municipal Court		Salary Range
1	Account Clerk II	279
1	Assistant Marshal-SB	442
2	Clerk II	269
1	Admin Services Clerk II	321
1	Clerk Typist II	269
7	Deputy Marshal	389
1	Marshal-SB	470
1	Marshal's Sergeant	424

SEC. 3. Section 74643 of the Government Code is amended to read:

74643. Within the Santa Maria Judicial District there shall be the following officers, attachés, and employees:

Santa Maria Municipal Court		Salary Range
1	Account Clerk III	306
1	Assistant Clerk-Admin Officer-SM	388
1	Chief Deputy Clerk	345
1	Clerk-Admin Officer-SM	435
3	Clerk Typist II	269
3	Clerk Typist III	296
3	Municipal Court Clerk	316
1	Account Clerk II	279
2	Data Entry Operator II	279

Marshal - Santa Maria Municipal Court		Salary Range
1	Account Clerk II	279
1	Account Clerk III	306
1	Assistant Marshal-SM	435
1	Clerk Typist II	269
4	Deputy Marshal	389
1	Deputy Marshal II	399
1	Marshal-SM	460

SEC. 4. Section 74644 of the Government Code is amended to read:

74644. Within the Lompoc Judicial District there shall be the following officers, attachés, and employees:

Municipal Court - Lompoc		Salary Range
1	Clerk-Admin Officer-Lompoc	413
1	Clerk Typist II	269
1	Clerk Typist III	296
1	Municipal Court Clerk	316
1	Assistant Clerk Admin Officer-Lompoc	372

Marshal-Lompoc Municipal Court		Salary Range
1	Admin Services Clerk I	311
1	Deputy Marshal	389
1	Marshal-Lompoc	447

SEC. 5. Section 74645 of the Government Code is amended to read:

74645. (a) It is the purpose of this section to provide compensation for municipal court employees and officers which is comparable to that paid to county employees holding equal or comparable positions in the Santa Barbara classified service as such comparability is determined by the Santa Barbara County Board of Supervisors.

(b) Whenever reference to a numbered salary range is made in any section of this article, the schedule and the salary ordinance of the County of Santa Barbara in effect January 1, 1983, shall apply.

(c) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to employees of municipal courts and marshals' offices and conversion to the new schedule shall be made for such employees in the same manner on the same date as for the classified service.

(d) Notwithstanding any of the provisions of this article, the salary and benefits of municipal court employees and officers shall be changed in the same manner and at the same rate as a salary and benefit change is effective for other permanent county classified positions. Employees and officers of the municipal court shall be

entitled to all employee benefits as they are provided and made applicable to positions within the classified service pursuant to Santa Barbara County ordinances or resolutions, to the extent that the benefits are not contrary to state law.

(e) All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provision of state law shall be governed by the personnel ordinances and resolutions of the Board of Supervisors of the County of Santa Barbara.

(f) Nothing in this article shall be construed to place marshals' or clerks' offices, their employees and attachés under the civil service system of Santa Barbara County but such employees and attachés may be placed under that civil service system by court rule adopted by the judges of their respective courts.

(g) Any changes in compensation made pursuant to this section shall be on an interim basis and shall expire January 1 of the second calendar year following such changes unless ratified by the Legislature.

SEC. 6. Section 74647 of the Government Code is amended to read:

74647. (a) Full-time official reporters appointed by the majority of the judges of the municipal court pursuant to the provisions of Section 72194 and so designated, shall be attachés of the court and shall receive a biweekly salary in accordance with the provisions of Section 70059.7. Such salary shall be paid at the same times and according to the same procedures as salaries of employees of the County of Santa Barbara. During the hours when the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

(b) The judges of the court may appoint as many part-time additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1985, unless ratified by statute by the Legislature prior to that date. In criminal cases such fees upon order of the court shall be a charge against the general fund of the county.

(c) An official reporter when not engaged in the performance of duties of the municipal court, may be appointed to serve as such reporter for the Santa Barbara County Grand Jury or in any other court in the County of Santa Barbara.

SEC. 7. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 480

An act to amend Section 18210 of, and to add Section 18205.5 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 18205.5 is added to the Financial Code, to read:

18205.5. Notwithstanding any other provision of this division, an industrial loan company may make a loan or acquire an obligation which is repayable in unequal periodic payments during its term, and which is secured by either real property or personal property, or both, provided that it is not a consumer loan or a consumer obligation subject to subdivision (b) of Section 18210. For purposes of this section, "real property" shall mean real property other than home loans and other residential real property loans subject to Title VIII (Alternative Mortgage Transaction Parity Act of 1982) of the Garn-St. Germain Depository Institutions Act of 1982, as those terms are defined in Part 541 of Title 12 of the Code of Federal Regulations, as amended.

SEC. 2. Section 18210 of the Financial Code is amended to read:

18210. (a) Except as provided in Sections 18205.5 and 18209 and subject to subdivision (b), an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless such loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term which shall not exceed eight years and six months from the date the loan or other obligation is made or acquired by the company.

(b) Any consumer loan or any purchase or discount of any consumer obligation having a term in excess of three years from the date the loan or other obligation is made or acquired by the company shall be secured solely by real property or solely by personal property and shall be repayable in installments and within a term not to exceed the limitations set forth in subdivision (a), except as otherwise may be provided for in subdivision (b) of Section 18205 and Sections 18206 to 18209, inclusive.

(c) Notwithstanding any other provision of this division, an

industrial loan company may make loans and acquire or discount obligations having a term in excess of three years secured primarily by real property pursuant to subdivision (a) or secured solely by real property pursuant to subdivision (b), provided that all such loans and obligations in excess of three years shall not in the aggregate exceed 20 percent of the industrial loan company's total outstanding loans and obligations.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed.

CHAPTER 481

An act to add Section 61613.2 to the Government Code and to amend Section 10500 of the Water Code, relating to water resources.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 61613.2 is added to the Government Code, to read:

61613.2. Notwithstanding any other provision, the Hamilton Branch Community Services District may borrow money to be used for the payment of current expenses, capital expenditures, and the discharge of any obligation or indebtedness of a district in a total amount which does not exceed 85 percent of the anticipated revenues to be received by the district during the 4-year period of the special tax measure approved by two-thirds of the qualified electors of the district in a special election held for that purpose on March 8, 1983. The note or notes issued by the district pursuant to a resolution adopted by the board of directors of the district authorizing the issuance thereof shall be made payable not later than the last day of the fourth consecutive fiscal year in which taxes are collected by the district pursuant to the terms of the special tax measure. The note or notes may bear interest not to exceed 10 percent per annum payable as provided therein. The interest may be represented by coupons attached to the note. The total amount of the interest to be paid shall not be included in the calculation of 85 percent of the anticipated tax revenues during the four-year period.

SEC. 2. Section 10500 of the Water Code is amended to read:

10500. The department shall make and file applications for any water which in its judgment is or may be required in the development and completion of the whole or any part of a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the state.

Any application filed pursuant to this part shall be made and filed

pursuant to Part 2 (commencing with Section 1200) of Division 2 of this code and the rules and regulations of the State Water Resources Control Board relating to the appropriation of water insofar as applicable thereto.

Applications filed pursuant to this part shall have priority, as of the date of filing, over any application made and filed subsequent thereto. The statutory requirements of Part 2 (commencing at Section 1200) of Division 2 relating to diligence shall not apply to applications filed under this part, except as otherwise provided in Section 10504.

SEC. 3. The Hamilton Branch Community Services District has been authorized by the voters to levy a special tax for four consecutive years with the proceeds to be used for, among other things, the cost of acquisition of the water system presently owned by Lake Almanor Water Supply, Inc. If the condemnation award for the acquisition of the system is in excess of what the district can pay from revenues collected during the fiscal year in which the award is made, the district will be obligated to borrow additional funds in anticipation of special taxes collected during the remainder of the four-year period. The provisions of Section 1 of this act are necessary to expressly authorize the Hamilton Branch Community Services District to borrow funds in anticipation of the tax revenues to be collected by the district during the four-year period of the tax measure. This need for special authority to borrow funds is not common to other districts formed under the Community Services District Law. The Legislature therefore finds and declares that a special law is necessary with respect to the Hamilton Branch Community Services District, that the provisions of Section 1 of this act are needed to meet the special circumstances within the district, and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 482

An act to add Section 14613.05 to the Government Code, and to add Section 1463.03 to the Penal Code, relating to the California State Police Division.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 14613.05 is added to the Government Code, to read:

14613.05. Moneys deposited in the California State Police Fund, which is hereby created, pursuant to Section 1463.03 of the Penal Code shall be available for the following purposes, when

appropriated therefor:

(a) To the Controller for the payment of refunds of fines and forfeitures determined by the Controller to have been erroneously deposited in the fund, subject to approval by the State Board of Control prior to payment.

(b) For training mandated or approved by the Commission on Peace Officer Standards and Training and other public safety training, including first aid, protective services, cardiopulmonary resuscitation, and other emergency medical technician training, for peace officers of the California State Police Division.

SEC. 2. Section 1463.03 is added to the Penal Code, to read:

1463.03. Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month into the State Treasury to the credit of the California State Police Division Fund an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction of any person or upon the forfeiture of bail from any person arrested or notified by a peace officer of the California State Police Division, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 483

An act to amend Section 16144 of the Government Code, relating to open space subventions.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 16144 of the Government Code is amended to read:

16144. On or before October 31, 1972, and annually thereafter, the governing body of each county, city, or city and county shall

submit a report to the Secretary of the Resources Agency itemizing the number of acres of land under its regulatory jurisdiction which it believes to be qualified for state payments pursuant to the various categories enumerated in Section 16142, together with such supporting documentation as the secretary by regulation may require. The secretary, after reviewing the report and determining the eligibility of the local government to receive payment and the actual amount to which it is entitled, shall certify that amount to the Controller for payment, and the Controller shall make the payment on or before June 30 of each year.

The secretary may make such supplemental reports to the Controller as it deems necessary throughout the year to give effect to new or additional information received from local governing bodies, correct errors, and dispose of contested or conditional situations. Upon receiving the reports, the Controller shall pay any amount certified therein, and may withhold and deduct any certified overpayment from the amount that would otherwise be paid to the local government in the next succeeding year.

CHAPTER 484

An act to amend Section 39645.5 of the Education Code, relating to schools.

[Approved by Governor July 27, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 39645.5 of the Education Code is amended to read:

39645.5. In addition to utilizing the procedures specified in Article 14 (commencing with Section 39520) of Chapter 3, any school district or any county board of education may, by direct sale or otherwise, sell to a purchaser any electronic data-processing equipment or other major items of equipment owned by, or to be owned by, the school district or county board, if the purchaser agrees to lease the equipment back to the school district or county for use by the school district or county following the sale.

The approval by the governing board of the school district or of the county superintendent of schools of the sale and leaseback shall be given only if the governing board of the school district or the county superintendent of schools finds, by resolution, that the equipment is data-processing equipment or another major item of equipment within the meaning of this section and that the sale and leaseback is the most economical means for providing electronic data-processing equipment or other major items of equipment to the school district or county.

CHAPTER 485

An act to add Sections 23010.4 and 37116 to the Government Code, relating to cities, counties and school districts.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 23010.4 is added to the Government Code, to read:

23010.4. Upon receipt of an application from the governing body of any school district maintaining a school within a county, requesting to borrow funds from the county for the purpose of removing or replacing asbestos-derived materials used in constructing, insulating, or furnishing one or more of those schools, and declaring the existence of such asbestos-derived material to be potentially detrimental to the health of pupils, teachers, and others using the school, the county board of supervisors may loan, and the school district may borrow, the requested county funds upon such terms and conditions as are mutually agreed upon by the respective governing bodies, provided that the loan shall be repaid only from the school district's deferred maintenance fund established pursuant to Section 39618 of the Education Code.

SEC. 2. Section 37116 is added to the Government Code, to read:

37116. Upon receipt of an application from the governing body of any school district maintaining a school within a city, requesting to borrow funds from the city for the purpose of removing or replacing asbestos-derived materials used in constructing, insulating, or furnishing one or more of those schools, and declaring the existence of such asbestos-derived material to be potentially detrimental to the health of pupils, teachers, and others using the school, the legislative body of the city may loan, and the school district may borrow, the requested city funds upon such terms and conditions as are mutually agreed upon by the respective governing bodies, provided that the loan shall be repaid only from the school district's deferred maintenance fund established pursuant to Section 39618 of the Education Code.

CHAPTER 486

An act to amend Sections 1275 and 1278 of the Code of Civil Procedure, relating to change of name.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 1275 of the Code of Civil Procedure is amended to read:

1275. Applications for change of names must be determined by the Superior Courts.

SEC. 2. Section 1278 of the Code of Civil Procedure is amended to read:

1278. The application shall be heard at such time as the court may appoint, only if objections are filed by any person who can, in such objections, show to the court good reason against the change of name. On the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper.

If no objection is filed the court may, without hearing, enter the order that the change of name is granted.

CHAPTER 487

An act to amend Section 11462 of the Welfare and Institutions Code, relating to Aid to Families with Dependent Children-Foster Care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) For children receiving AFDC-FC under the provisions of this chapter who are placed in group homes, or public child care institutions, as defined in Section 11402.5, there shall be a rate established based on actual allowable costs.

(b) (1) As used in this section, "allowable costs" means: (A) the reasonable cost of, and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation; (B) reasonable cost of administration and operation necessary to provide the items described in paragraph (A); and (C) reasonable activities performed by social workers employed by group home providers which are not otherwise allowable as daily supervision or as the costs of administration.

(2) The director, with the advice and assistance of the counties, shall have the authority to define reasonableness as he determines it to be necessary and appropriate, for paragraph (1) of this subdivision.

(3) Provided the necessary statistics are available or can be reasonably obtained, the Department of Finance shall report to the Legislature on the cost of savings of subsection (b) (1) by July 1, 1983.

(4) The services specified in subparagraph (C) of paragraph (1) of subdivision (b) will be funded to the extent any general or federal welfare fund savings result from any federal changes in the 1983 federal Budget Act, or if these savings do not materialize, from other federal funds not otherwise appropriated by the Legislature.

(c) During the 1983–84 fiscal year, the department, with the advice and assistance of the counties and the Department of Finance, shall develop and implement a plan whereby AFDC-FC payment rates shall be effectively controlled. Implementation of the rate control method shall be effective not sooner than 30 days after submission of the plan to the Chairman of the Joint Legislative Budget Committee.

(d) The 1983–84 fiscal year payments to group homes shall not exceed the 1982–83 fiscal year payments adjusted for cost of living in accordance with procedures in Section 11453, subject to the availability of funds. This limitation shall not apply to group homes which received noncost-based, scheduled rates during the 1982–83 fiscal year. A noncost-based scheduled rate provider is one whose entire 1981–82 and 1982–83 fiscal year rates were set by use of a county schedule which did not consider any costs specific to that particular provider.

(e) The department shall perform an audit at least once every three years beginning October 1, 1982, on all group homes who received funds on behalf of children receiving assistance under the AFDC-FC program.

(f) For fiscal year 1983–84, the actual cost of providing shelter during the 1982 calendar year shall be considered an allowable cost in the determination of the AFDC-FC group-home rate. The actual cost of providing shelter shall be defined for owned property as the actual cost of principle and interest payments on original acquisition mortgages, plus taxes and insurance. The actual cost of providing shelter for rented and leased property shall be defined as the actual and reasonable rental or lease costs, plus insurance. In order to determine the maximum level of federal financial participation in the AFDC-FC rate for leased property which is defined by the department as being in a leaseback situation, the provider shall report both the actual cost of providing shelter as if the property has been owned and the actual cost as defined for rented and leased property.

(g) The department, with the advice and assistance of the Department of Finance, counties, and representatives of various provider organizations, shall develop a formula or formuli for controlling group home shelter expenses beyond the 1983–84 fiscal year. The aim of the formula or formuli shall be to best ensure that: (1) legitimate group home shelter expenses are covered, (2) group home operators are not provided reimbursement beyond that

necessary to provide adequate shelter to AFDC-FC funded children, and (3) children are able to remain in facilities that meet their needs without undue costs. The department shall give consideration to at least the following: (1) limiting shelter expenses to the product of the current fair market value of the facility, as determined by an independent assessor, and a specific percentage, and (2) limiting shelter expenses to a specific allowance per child. Whatever formula or formuli are developed by the department shall apply to all providers and shall not distinguish among group homes on the basis of whether the operator owns, rents or leases the facility, or on the basis of the party from whom the operator leases or rents. Implementation of the department's recommendations shall be effective not sooner than 30 days after their submission to the Chairman of the Joint Legislative Budget Committee.

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 for provisions of this act to take effect simultaneously with the implementation of a new statewide Aid to Families with Dependent Children-Foster Care rate setting system, it is necessary that this act take effect immediately.

CHAPTER 488

An act to repeal Division 18.5 (commencing with Section 32000) of the Elections Code, and to amend Sections 17027, 17039, 17041, 17042, 17046, 17048, 17052.6, 17052.9, 17054, 17054.5, 17056, 17063, 17063.2, 17064.6, 17069, 17631, 17635, 17636, 17637, 17638, 17639, 17640, 17641, 17681, 17682, 17686, 17687, 17689.5, 17690, 18242, 18243, 18244, 18402, 18402.7, 18405.1, 18452, 18471, 18586.4, 18586.5, 18698.5, 18802.5, 18802.7, 19053.7, 19267, 20503, 20508, 20627, 20629, 23701q, 23704.5, 23707, 23708, 23709, 23732, 23734c, 23735, 23736.1, 24307, 24352.1, 24354.1, 24357.5, 24382, 24439, 24446, 24483.5, 24497, 24514, 24601, 24602, 24603, 24605, 24610, 24611, 24612, 24613, 24614, 24621, 24622, 24662, 24837, 24837.5, and 24918 of, to add Sections 17024.5, 19270, and 23051.5 to, to add Chapters 14 (commencing with Section 18151) and 18.5 (commencing with Section 18701) to Part 10 of Division 2 of, to repeal and add Article 1 (commencing with Section 17071) and Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 of Division 2 of, to repeal and add Chapter 4 (commencing with Section 17321), Chapter 5 (commencing with Section 17501), Chapter 6 (commencing with Section 17551), Chapter 9 (commencing with Section 17731), Chapter 10 (commencing with Section 17851), Chapter 13 (commencing with Section 18031), and Chapter 16 (commencing with Section 18351), of Part 10 of Division 2 of, to repeal and add Article 2 (commencing with Section 17081)

and Article 3 (commencing with Section 17131) of Chapter 3 of, Article 3 (commencing with Section 17671) of Chapter 7 of, Article 2 (commencing with Section 17711) of Chapter 8 of, Part 10 of Division 2 of, to repeal Sections 17041.1, 17043, 17044, 17052.2, 17057, 17058, 17059, 17059.5, 17064, 17689, 18246, and 18802.9, to repeal Article 4 (commencing with Section 17171), Article 7 (commencing with Section 17251), and Article 8 (commencing with Section 17281) of Chapter 3 of Part 10 of Division 2 of, to repeal Chapters 4.5 (commencing with Section 17490) and 14 (commencing with Section 18152) of Part 10 of Division 2 of, and to repeal Article 2 (commencing with Section 18301) of Chapter 15 of Part 10 of Division 2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Division 18.5 (commencing with Section 32000) of the Elections Code is repealed.

SEC. 2. Section 17024.5 is added to the Revenue and Taxation Code, to read:

17024.5. (a) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of Chapters 2 to 17, inclusive, of this part, means Title 26 of the United States Code, including all amendments thereto in effect on the specified date for the applicable taxable year as follows:

Taxable Year	Effective Date of Internal Revenue Code Sections
(1) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	December 31, 1981
(2) For taxable years beginning on or after January 1, 1984.....	December 31, 1981

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1371(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Net operating losses.

(13) Nonresident aliens.

(14) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (See Section 18162.5 for amounts includable in income for purposes of this part).

(15) Section 1245 of the Internal Revenue Code recovery property.

(16) Recovery property specified in Section 168 of the Internal Revenue Code.

(17) Section 179 of the Internal Revenue Code property.

(18) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(19) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(20) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of this part, any reference to regulations prescribed by "the Secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the Secretary" in effect as of the applicable effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the Secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "Secretary" shall mean the "Franchise Tax Board."

SEC. 3. Section 17027 of the Revenue and Taxation Code is amended to read:

17027. For the purpose of applying the provisions of Section 79 of the Internal Revenue Code, with respect to group-term life insurance purchased for employees, for the purpose of applying the provision of Sections 104, 105, and 106 of the Internal Revenue Code with respect to accident and health insurance or accident and health plans, for the purpose of applying the provisions of Section 101 (b) (2) of the Internal Revenue Code with respect to employees' death benefits, and for the purpose of applying the provisions of this part with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of Chapter 21 of the Federal Internal Revenue Code, or in the case of services performed before January 1, 1953, who would be considered an employee if his services were performed during 1953.

SEC. 4. Section 17039 of the Revenue and Taxation Code amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 less the credits allowed by Section 17054 (relating to personal exemption credits) and Section 17054.5 (relating to student credits). Credits shall be allowed against "net tax" in the following order:

(1) Credits which do not contain carryover or refundable provisions, except those described in paragraph (4);

(2) Credits which contain carryover provisions but do not contain refundable provisions;

(3) Credits which contain both carryover and refundable provisions;

(4) Credits for taxes paid to other states; and

(5) Credits which contain refundable provisions but do not contain carryover provisions.

For the purposes of paragraphs (2), (3), and (5), the order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17053.5, 17061, and 18551.1, the credits provided in those sections shall be allowed in the order provided in paragraph (5) of subdivision (a).

(c) This section shall be applied in the computation of taxes for taxable years beginning on and after January 1, 1981.

SEC. 5. Section 17041 of the Revenue and Taxation Code is

amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $1,000	No tax.
Over $1,000 but not over $3,000	1% of the taxable income
Over $3,000 but not over $4,500	$20 plus 2% of excess over $3,000
Over $4,500 but not over $6,000	$50 plus 3% of excess over $4,500
Over $6,000 but not over $7,500	$95 plus 4% of excess over $6,000
Over $7,500 but not over $9,000	$155 plus 5% of excess over $7,500
Over $9,000 but not over $10,500	$230 plus 6% of excess over $9,000
Over $10,500 but not over $12,000	$320 plus 7% of excess over $10,500
Over $12,000 but not over $13,500	$425 plus 8% of excess over $12,000
Over $13,500 but not over $15,000	$545 plus 9% of excess over $13,500
Over $15,000 but not over $16,500	$680 plus 10% of excess over $15,000
Over $16,500	$830 plus 11% of excess over $16,500

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when such resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2,000	No tax.
Over $2,000 but not over $6,000	1% of the taxable income
Over $6,000 but not over $8,000	$40 plus 2% of excess over $6,000
Over $8,000 but not over $9,500	$80 plus 3% of excess over $8,000
Over $9,500 but not over $11,000	$125 plus 4% of excess over $9,500
Over $11,000 but not over $12,500	$185 plus 5% of excess over $11,000
Over $12,500 but not over $14,000	$260 plus 6% of excess over $12,500
Over $14,000 but not over $15,500	$350 plus 7% of excess over $14,000
Over $15,500 but not over $17,000	$455 plus 8% of excess over $15,500
Over $17,000 but not over $18,500	$575 plus 9% of excess over $17,000
Over $18,500 but not over $20,000	$710 plus 10% of excess over $18,500
Over $20,000	$860 plus 11% of excess over $20,000

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when such nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2,000	1% of the taxable income
Over $2,000 but not over $3,500	$20 plus 2% of excess over $2,000
Over $3,500 but not over $5,000	$50 plus 3% of excess over $3,500
Over $5,000 but not over $6,500	$95 plus 4% of excess over $5,000
Over $6,500 but not over $8,000	$155 plus 5% of excess over $6,500
Over $8,000 but not over $9,500	$230 plus 6% of excess over $8,000
Over $9,500 but not over $11,000	$320 plus 7% of excess over $9,500
Over $11,000 but not over $12,500	$425 plus 8% of excess over $11,000
Over $12,500 but not over $14,000	$545 plus 9% of excess over $12,500
Over $14,000 but not over $15,500	$680 plus 10% of excess over $14,000
Over $15,500	$830 plus 11% of excess over $15,500

(f) The tax imposed by this part is not a surtax.

(g) For each taxable year beginning on or after January 1, 1978, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a), (c), and (e). Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) For taxable years beginning on or after January 1, 1978, and

ending on or before November 30, 1979, the Franchise Tax Board shall recompute the income tax brackets by multiplying each income bracket figure in subdivisions (a), (c), and (e) by the inflation adjustment factor of 1.05222, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(3) For taxable years beginning on or after January 1, 1979, and ending on or before November 30, 1980, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure furnished pursuant to paragraph (1) which exceeds three percent (3%), and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(4) For taxable years beginning on or after January 1, 1980 and ending on or before November 30, 1982, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(5) For taxable years beginning on and after January 1, 1982, and thereafter, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(h) For taxable years beginning on or after January 1, 1983, and thereafter, the Franchise Tax Board shall include the standard deduction in effect for the 1982 taxable year pursuant to former Section 17171 in the base for recomputation of the income tax brackets pursuant to paragraph (5) of subdivision (g).

For purposes of this part, the zero bracket amount defined by subdivision (b) of Section 17073 shall be equal to the amount that otherwise would have been computed as the standard deduction under former Section 17171.

It is the intent of the Legislature that the zero bracket amount shall replace the standard deduction formerly provided by Article 4 (commencing with Section 17171) of Chapter 3, and shall be treated as an additional tax bracket to be recomputed annually as prescribed by subdivision (g).

SEC. 6. Section 17041.1 of the Revenue and Taxation Code is repealed.

SEC. 6.3. Section 17042 of the Revenue and Taxation Code is amended to read:

17042. (a) For purposes of this part, an individual shall be considered a head of a household if he or she qualifies under Section 2(b) and (c) of the Internal Revenue Code.

(b) Head of household status shall not be denied under Section 2(b) (3) (A) of the Internal Revenue Code (relating to nonresident aliens).

(c) The special provisions of Section 17042.5 relating to joint custody head of household shall be applicable.

SEC. 6.5. Section 17043 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 17044 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 17046 of the Revenue and Taxation Code is amended to read:

17046. (a) For purposes of this part, the term "surviving spouse" has the same meaning as that term is defined by Section 2(a) of the Internal Revenue Code.

SEC. 9. Section 17048 of the Revenue and Taxation Code is amended to read:

17048. (a) In lieu of the tax imposed under Section 17041, individuals with taxable income of such amounts as prescribed by the Franchise Tax Board, shall compute their taxes under tax tables promulgated by regulation by the Franchise Tax Board. The tax tables shall reflect the tax imposed under Section 17041 in income progressions of not less than one hundred dollars ($100), giving effect to the marital or other status of the individual. For purposes of this part, the tax imposed by this section shall be treated as tax imposed by Section 17041.

(b) Subdivision (a) shall not apply to any of the following:

(1) An individual to whom Article 1 (commencing with Section 18241) of Chapter 15 (relating to income averaging) applies for the taxable year.

(2) An individual to whom Section 17085 (relating to distributions received from qualified pension, profit-sharing and stock bonus plans, and employee annuities) applies for the taxable year.

(3) An individual making a return under Section 433(a)(1) of the Internal Revenue Code for a period of less than 12 months on account of a change in annual accounting period.

(4) An estate or trust.

SEC. 10. Section 17052.2 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. There shall be allowed as a credit against the "net tax" imposed by this part for the taxable year an amount determined in accordance with Section 44A of the Internal Revenue Code, except as follows:

(a) The "applicable percentage" shall be 3 percent.

(b) The dollar limitations in Section 44A(d)(1) and (2) of the Internal Revenue Code (relating to employment-related expenses) shall be two thousand dollars ($2,000), in lieu of two thousand four hundred dollars ($2,400), and four thousand dollars ($4,000), in lieu of four thousand eight hundred dollars ($4,800).

(c) The amount of the credit shall be reduced by 2 percent for each one hundred dollars ($100) of adjusted gross income in excess

of fifteen thousand dollars ($15,000).

SEC. 12. Section 17052.9 of the Revenue and Taxation Code is amended to read:

17052.9. In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the "net tax" imposed by this part for the taxable year an amount determined in accordance with Section 37 of the Internal Revenue Code, except that no credit shall be allowed under this section to any nonresident.

SEC. 13. Section 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals computing their tax under Section 17041 or Section 17048, the following credits for personal exemption may be deducted from the tax imposed.

(a) In the case of a single individual, or a married individual making a separate return a credit of twenty-five dollars ($25).

(b) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of fifty dollars ($50). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) Except as provided in paragraph (6), a credit of eight dollars ($8) for each dependent (as defined in Section 17056)—

(1) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars ($1,000), or

(2) Who is a child of the taxpayer and who (A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (B) is a student.

(3) No exemption shall be allowed under this subdivision for any dependent who has made a joint return with his spouse under Section 18402 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(4) For purposes of paragraph (2), the term "child" means an individual who (within the meaning of Section 17056) is a son, stepson, daughter or stepdaughter of the taxpayer.

(5) For purposes of subparagraph (B) of paragraph (2) of this subdivision and Section 152(d) of the Internal Revenue Code, the term "student" means an individual who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) Is a full-time student at an educational institution; or

(B) Is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state.

For purposes of this paragraph, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly

organized body of students in attendance at the place where its educational activities are carried on.

(6) If the taxpayer would not occupy the status of head of a household except by reason of there being one or more dependents for whom he or she would be entitled to claim a credit under subdivision (c), the credit shall be disallowed with respect to one of the dependents.

(d) A credit for personal exemption of eight dollars ($8) for the taxpayer if he is blind at the close of his taxable year.

(e) A credit for personal exemption of eight dollars ($8) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f) For the purposes of this section, an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(g) For taxable years beginning after December 31, 1977 and before January 1, 1979, the twenty-five dollars ($25) specified in subdivision (a) shall be one hundred dollars ($100) instead of twenty-five dollars ($25), and the fifty dollars ($50) specified in subdivision (b) shall be two hundred dollars ($200) instead of fifty dollars ($50). If the taxpayer has more than one taxable year beginning after December 31, 1977 and before January 1, 1979, such taxpayer shall be allowed the increased exemption provided by this subdivision only with respect to the taxable year which covers the most number of months.

(h) For each taxable year beginning on or after January 1, 1979, the Franchise Tax Board shall compute the credits prescribed in this section. Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of 1978 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1977 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 13.5. Section 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals computing their tax under Section 17041 or Section 17048, the following credits for personal exemption may be deducted from the tax imposed.

(a) In the case of a single individual, or a married individual making a separate return a credit of twenty-five dollars ($25).

(b) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of fifty dollars ($50). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) Except as provided in paragraph (6), a credit of eight dollars ($8) for each dependent (as defined in Section 17056)—

(1) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars ($1,000), or

(2) Who is a child of the taxpayer and who (A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (B) is a student.

(3) No exemption shall be allowed under this subdivision for any dependent who has made a joint return with his spouse under Section 18402 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(4) For purposes of paragraph (2), the term "child" means an individual who (within the meaning of Section 17056) is a son, stepson, daughter or stepdaughter of the taxpayer.

(5) For purposes of subparagraph (B) of paragraph (2) of this subdivision and Section 152(d) of the Internal Revenue Code, the term "student" means an individual who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) Is a full-time student at an educational institution; or

(B) Is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state.

For purposes of this paragraph, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) If the taxpayer would not occupy the status of head of a household except by reason of there being one or more dependents for whom he or she would be entitled to claim a credit under subdivision (c), the credit shall be disallowed with respect to one of the dependents.

(d) A credit for personal exemption of eight dollars ($8) for the taxpayer if he is blind at the close of his taxable year.

(e) A credit for personal exemption of eight dollars ($8) for the spouse of the taxpayer if a separate return is made by the taxpayer,

and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f) For the purposes of this section, an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(g) For taxable years beginning after December 31, 1977 and before January 1, 1979, the twenty-five dollars ($25) specified in subdivision (a) shall be one hundred dollars ($100) instead of twenty-five dollars ($25), and the fifty dollars ($50) specified in subdivision (b) shall be two hundred dollars ($200) instead of fifty dollars ($50). If the taxpayer has more than one taxable year beginning after December 31, 1977 and before January 1, 1979, such taxpayer shall be allowed the increased exemption provided by this subdivision only with respect to the taxable year which covers the most number of months.

(h) For each taxable year beginning on or after January 1, 1979, and ending on or before November 30, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of 1978 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1977 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

(i) For each taxable year beginning on or after January 1, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index as modified for rental equivalent homeownership for all items from June of 1983 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1983 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 14. Section 17054.5 of the Revenue and Taxation Code is amended to read:

17054.5. In the case of an individual computing his or her tax under Section 17041 or 17048, there shall be allowed as a credit against the tax imposed eight dollars ($8) for each person (other than a dependent, as defined in Section 17056, or a relative of the taxpayer) maintained as a member of the taxpayer's household for a period of not less than six months, if during such period such individual is otherwise qualified under the provisions of Section 170(g) of the Internal Revenue Code.

SEC. 15. Section 17056 of the Revenue and Taxation Code is amended to read:

17056. For the purposes of this part, the term "dependents" has the same meaning as that term is defined by Section 152 of the Internal Revenue Code.

SEC. 16. Section 17057 of the Revenue and Taxation Code is repealed.

SEC. 17. Section 17058 of the Revenue and Taxation Code is repealed.

SEC. 18. Section 17059 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 17059.5 of the Revenue and Taxation Code is repealed.

SEC. 19.3. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2).

(b) With respect to each "Section 1250 property" (as defined in Section 1250(c) of the Internal Revenue Code), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 167(k) or 191 of the Internal Revenue Code) for which the taxpayer has held the property.

(c) With respect to each item of Section 1245 property (as defined in Section 1245(a) (3) of the Internal Revenue Code) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to the transfer of a share of stock pursuant to the exercise of a qualified stock option (as defined in Section 422(b) of the Internal Revenue Code) or a restricted stock option (as defined in Section 424 of the Internal Revenue Code), the amount by which the fair market value of the share at the time of exercise exceeds the option price.

(e) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

(f) The amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(g) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000). This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for the taxable year and immediately preceding two years is from farming. Nor shall this subdivision apply if the net farm loss is the result of aquaculture activities. For purposes of this subdivision, "aquaculture" means a form of agriculture which is devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water.

(h) The excess of the intangible drilling and development costs described in Section 263(c) of the Internal Revenue Code paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to:

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

SEC. 19.5. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. For purposes of this chapter, the items of tax preference

are:

(a) An amount equal to the excess iternized deductions for the taxable year (as determined under Section 17063.2).

(b) With respect to each "Section 1250 property" (as defined in Section 1250(c) of the Internal Revenue Code), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 167(k) or 191 of the Internal Revenue Code) for which the taxpayer has held the property.

(c) With respect to each item of Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to the transfer of a share of stock pursuant to the exercise of a qualified stock option (as defined in Section 422(b) of the Internal Revenue Code) or a restricted stock option (as defined in Section 424 of the Internal Revenue Code), the amount by which the fair market value of the share at the time of exercise exceeds the option price.

(e) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

(f) The amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(g) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000). This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for the taxable year and immediately preceding two years is from farming. Nor shall this subdivision apply if the net farm loss is the result of aquaculture activities. For purposes of this subdivision, "aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code.

(h) The excess of the intangible drilling and development costs described in Section 263(c) of the Internal Revenue Code paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to:

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

SEC. 19.7. Section 17063.2 of the Revenue and Taxation Code is amended to read:

17063.2. (a) For purposes of subdivision (a) of Section 17063, the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

(1) The deduction for state and local taxes provided by Section 164(a) of the Internal Revenue Code,

(2) The deduction for medical, dental, etc., expenses provided by Section 213 of the Internal Revenue Code,

(3) The deduction for casualty losses described in paragraph (3) of subdivision (c) of Section 165 of the Internal Revenue Code,

(4) The deduction allowable under Section 691(c)(1) of the Internal Revenue Code, exceeds 60 percent of the taxpayer's adjusted gross income reduced by the items in paragraphs (1) through (4) for the taxable year.

(b) In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

(1) Under Section 642(c) of the Internal Revenue Code (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under Section 662(a) of the Internal Revenue Code for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

(2) Under Section 642(e), 642(f), 651, 661, or 691 of the Internal Revenue Code; or

(3) For costs paid or incurred in connection with the administration of the trust or estate shall, for purposes of subdivision (a), be treated as a deduction allowable in arriving at an adjusted gross income.

SEC. 20. Section 17064 of the Revenue and Taxation Code is repealed.

SEC. 20.5. Section 17064.6 of the Revenue and Taxation Code is amended to read:

17064.6. For the purposes of this chapter, the term "net business loss" means adjusted gross income (as defined in Section 17072) less

the deductions allowed by Section 212 of the Internal Revenue Code (relating to expenses for production of income), only if such net amount is a loss.

SEC. 20.7. Section 17069 of the Revenue and Taxation Code is amended to read:

17069. (a) A special tax credit at the percentage provided in subdivision (b) or (c) shall be allowed against the amount of "net tax" (as defined in Section 17069.5), with respect to taxable years beginning after December 31, 1972, and before January 1, 1974. If the taxpayer has more than one taxable year beginning after December 31, 1972, and before January 1, 1974, such taxpayer shall be allowed the credit provided by this section only with respect to the taxable year which covers the most number of months.

(b) In the case of a single person, or a married person filing a separate return, the special tax credit percentage shall be as follows:

If the adjusted gross income is:	The percentage of credit is:
$4,000 or less	100%
Over $4,000 but not over $7,500	35
Over $7,500 but not over $10,000	30
Over $10,000 but not over $12,500	25
Over $12,500	20

(c) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a married couple filing a joint return, the special tax credit percentage shall be as follows:

If the adjusted gross income is:	The percentage of credit is:
$8,000 or less	100%
Over $8,000 but not over $15,000	35
Over $15,000 but not over $20,000	30
Over $20,000 but not over $25,000	25
Over $25,000	20

(d) For taxable years beginning on or after January 1, 1974, and ending on or before November 30, 1976, there shall be allowed against the amount of "net tax" (as defined in Section 17069.5) a special tax credit of 100 percent (1) for a single person or a married person filing a separate return with an adjusted gross income of four thousand dollars ($4,000) or less, or (2) for a head of household, a surviving spouse (as defined in Section 17046), or a married couple filing a joint return with an adjusted gross income of eight thousand dollars ($8,000) or less.

(e) For taxable years beginning on or after January 1, 1976, a nonrefundable special tax credit in the amount provided in paragraph (1) or (2) shall be allowed as follows:

(1) In the case of a single person, or a married person filing a separate return, the special tax credit shall be forty dollars ($40) if the adjusted gross income of the taxpayer is five thousand dollars

($5,000) or less. If the adjusted gross income exceeds five thousand dollars ($5,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of five thousand dollars ($5,000).

(2) In the case of a head of household, a surviving spouse, or a married couple filing a joint return, the special tax credit shall be eighty dollars ($80) if the adjusted gross income of the taxpayer is ten thousand dollars ($10,000) or less. If the adjusted gross income of the taxpayer exceeds ten thousand dollars ($10,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of ten thousand dollars ($10,000).

(3) The special tax credit set forth in this subdivision shall not be available to a single person or a married person filing a separate return whose total income (as defined in subdivision (i)) exceeds ten thousand dollars ($10,000), or a head of household, a surviving spouse, or a married couple filing a joint return whose total income exceeds twenty thousand dollars ($20,000).

(4) The special tax credit set forth in this subdivision shall not be available to any taxpayer required to pay the tax on preference income imposed in Chapter 2.1 (commencing with Section 17062), during the taxable year.

(f) If, after the tax credit provided by this section is claimed, the Franchise Tax Board determines that the taxpayer's tax liability is more or less than the amount shown on the return, a corresponding adjustment shall be made by the Franchise Tax Board for the special tax credit.

(g) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part or to nonresidents as of the close of the taxable year for which the credit is claimed.

(h) For the purposes of this section, the adjusted gross income of a nonresident means gross income from sources both within and without this state less the deductions allowed by Section 17072.

(i) For the purposes of this section, total income means adjusted gross income, as defined in Section 17072, increased by the adjustments to income provided in Section 62(12) of the Internal Revenue Code (relating to penalty for premature withdrawal of certain funds), Section 104 of the Internal Revenue Code (relating to sick pay), Sections 17138 to 17140, inclusive (relating to military exclusion), Section 62(2) of the Internal Revenue Code (relating to employee business expenses), Section 62(7) of the Internal Revenue Code (relating to individual retirement accounts, annuities, and bond deductions), Section 62(8) of the Internal Revenue Code (relating to moving expenses), Section 401(j) of the Internal Revenue Code (relating to self-employed defined benefit plans), and Section 404(e) of the Internal Revenue Code (relating to self-employed retirement plan deductions).

(j) For the purposes of subdivision (e),

(1) For each taxable year beginning on or after January 1, 1979,

the Franchise Tax Board shall recompute credits prescribed in such subdivision. Such computation shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to subparagraph (A) and divide the result by 100.

(C) The Franchise Tax Board shall multiply each of the prior taxable year's credits by the inflation adjustment factor provided in subparagraph (B), rounded off to the nearest one dollar ($1).

SEC. 21. Article 1 (commencing with Section 17071) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 22. Article 1 (commencing with Section 17071) is added to Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 1. Definition of Gross Income, Adjusted Gross Income, Taxable Income, etc.

17071. Gross income shall be defined by Section 61 of the Internal Revenue Code, except that gross income shall not include any amounts received by a taxpayer pursuant to Section 11034 of the Government Code.

17072. Adjusted gross income shall be defined by Section 62 of the Internal Revenue Code, except as follows:

(a) No deduction shall be allowed for any of the following:

(1) The deduction allowed by Section 62(3) of the Internal Revenue Code (relating to long-term capital gains).

(2) The deduction allowed by Section 62(9) of the Internal Revenue Code (relating to pension plans of electing small business corporations).

(3) The deduction allowed by Section 62(11) of the Internal Revenue Code (relating to lump sum distributions from pension plans).

(4) The deduction allowed by Section 62(15) of the Internal Revenue Code (relating to repayments of supplemental unemployment compensation benefits).

(b) In the case of a life tenant of property, or an income beneficiary of property held in trust, or an heir, legatee, or devisee of an estate, the deduction for depreciation allowed by Section 167 of the Internal Revenue Code and the deduction allowed by Section 17681 shall be allowed.

17073. Taxable income shall be defined by Section 63 of the Internal Revenue Code, except as follows:

(a) The deduction for direct charitable deductions, provided by

Section 63(b) (1) (C) of the Internal Revenue Code, shall apply only to contributions made after December 31, 1983, and before January 1, 1987.

(b) For purposes of this part, the term "zero bracket amount", defined by Section 63(d) of the Internal Revenue Code, means an amount equal to the maximum amount of taxable income on which no tax is imposed pursuant to Section 17041.

(c) The unused zero bracket computation provided by Section 63(e) of the Internal Revenue Code shall apply only to a married individual filing a separate return where either spouse itemized deductions.

17074. For purposes of this part, the term "ordinary income" shall be defined by Section 64 of the Internal Revenue Code.

17075. For purposes of this part, the term "ordinary loss" shall be defined by Section 65 of the Internal Revenue Code.

SEC. 23. Article 2 (commencing with Section 17081) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 24. Article 2 (commencing with Section 17081) is added to Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. Items Specifically Included in Gross Income

17081. Items that are specifically included in gross income shall be determined in accordance with Part II of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this article.

17082. The amount of the penalty imposed by Section 72(m) (5) of the Internal Revenue Code and Section 72(o) (2) of the Internal Revenue Code shall be an amount equal to 2½ percent of the amount includable in gross income for the taxable year.

17083. The provisions of Section 85 of the Internal Revenue Code, relating to unemployment compensation, shall not be applicable.

17084. The provisions of Section 72(f) (2) of the Internal Revenue Code, relating to special rules for computing employees' contributions, shall be applicable without respect to the exceptions which immediately follow that paragraph.

17085. (a) (1) This section shall apply to amounts—

(A) Distributed to a distributee, in the case of an employee's trust described in Section 401(a) of the Internal Revenue Code, which is exempt from tax under Section 17631, or

(B) Paid to a payee, in the case of an annuity plan described in Section 403(a) of the Internal Revenue Code,

if the total distributions or amounts payable to the distributee or payee with respect to an employee (including an individual who is an employee within the meaning of Section 401(c) (1) of the Internal Revenue Code) are paid to the distributee or payee within one taxable year of the distributee or payee, but only to the extent that

Section 402(a) (2) of the Internal Revenue Code or Section 403(a) (2) of the Internal Revenue Code does not apply to those amounts.

(2) This section shall apply only to distributions or amounts paid—

(A) On account of the employee's death,

(B) With respect to an individual who is an employee without regard to Section 401(c) (1) of the Internal Revenue Code, on account of his or her separation from the service,

(C) With respect to an employee within the meaning of Section 401(c) (1) of the Internal Revenue Code, after he or she has attained the age of 59½ years, or

(D) With respect to an employee within the meaning of Section 401(c) (1) of the Internal Revenue Code, after he or she has become disabled (within the meaning of Section 72(m) (7) of the Internal Revenue Code.

(3) This section shall apply to amounts distributed or paid to an employee from or under a plan only if he or she has been a participant in the plan for five or more taxable years prior to the taxable year in which those amounts are distributed or paid.

(4) This section shall not apply to amounts described in Section 72(m) (5) (A) (ii) of the Internal Revenue Code.

(b) In any case to which this section applies, the tax attributable to the amounts to which this section applies for the taxable year in which those amounts are received shall not exceed whichever of the following is the greater:

(1) Five times the increase in tax which would result from the inclusion in gross income of the recipient of 20 percent of so much of the amount so received as is includable in gross income, or

(2) Five times the increase in tax which would result if the taxable income of the recipient for that taxable year equaled 20 percent of the amount of the taxable income of the recipient for that taxable year determined under paragraph (1) of subdivision (c).

(c) Notwithstanding Section 17073 (relating to definition of taxable income), for purposes only of computing the tax under this part attributable to amounts to which this section or Section 72(m) (5) of the Internal Revenue Code applies and which are includable in gross income—

(1) The taxable income of the recipient for the taxable year of receipt shall be treated as being not less than the aggregate of those amounts so includable in gross income; and

(2) In making ratable inclusion computations under Section 72(m) (5) (B) of the Internal Revenue Code, the taxable income of the recipient for each taxable year involved in the ratable inclusion shall be treated as being not less than the amount required by Section 72(m) (5) (B) of the Internal Revenue Code to be treated as includable in gross income for that taxable year.

In any case in which the preceding sentence results in an increase in taxable income for any taxable year, the resulting increase in the taxes imposed by Section 17041 or 17048 for that taxable year shall not be reduced by any credit under this part which, but for this sentence,

would be allowable.

(d) In the case of amounts to which this section applies which are distributed or paid with respect to an individual who is an employee without regard to Section 401(c)(1) of the Internal Revenue Code, subdivision (b) shall be applied with the following modifications:

(1) "Seven times" shall be substituted for "five times," and "14⅔ percent" shall be substituted for "20 percent."

(2) Any amount which is received during the taxable year by the employee as compensation (other than as deferred compensation within the meaning of Sections 404(a) to 404(g), inclusive, of the Internal Revenue Code) for personal services performed for the employer in respect of whom the amounts distributed or paid are received shall not be taken into account.

(3) No portion of the total distributions or amounts payable (of which the amounts distributed or paid are a part) to which Section 402(a)(2) of the Internal Revenue Code or Section 403(a)(2)(A) applies shall be taken into account.

Paragraph (2) shall not apply if the employee has not attained the age of 59½ years unless he or she has died or become disabled (within the meaning of Section 72(m)(7) of the Internal Revenue Code).

17086. (a) Noncash patronage allocations from farmers' cooperative and mutual associations (whether paid in capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice or in some other manner that discloses the dollar amount of such noncash patronage allocations) may, at the election of the taxpayer, be considered as income and included in gross income for the taxable year in which received.

(b) If a taxpayer exercises the election provided for in subdivision (a), the amount included in gross income shall be the face amount of those allocations.

(c) If a taxpayer elects to exclude noncash patronage allocations from gross income for the taxable year in which received, those allocations shall be included in gross income in the year that they are redeemed or realized upon.

(d) If a taxpayer exercises the election provided for in subdivision (c), the face amount of those noncash patronage allocations shall be disclosed in the return made for the taxable year in which those noncash patronage allocations were received.

(e) If a taxpayer exercises the election provided for in subdivision (a) or (c) for any taxable year, then the method of computing income so adopted shall be adhered to with respect to all subsequent taxable years unless with the approval of the Franchise Tax Board a change to a different method is authorized.

(f) If a taxpayer has made the election provided for in subdivision (c), then (1) the statutory period for the assessment of a deficiency for any taxable year in which the amount of any noncash patronage allocations are realized shall not expire prior to the expiration of four years from the date the Franchise Tax Board is notified by the taxpayer (in such manner as the Franchise Tax Board may by

regulation prescribe) of the realization of gain on those allocations; and (2) that deficiency may be assessed prior to the expiration of that four-year period, notwithstanding the provisions of Section 18586 or the provisions of any other law or rule of law which would otherwise prevent that assessment.

SEC. 25. Article 3 (commencing with Section 17131) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 26. Article 3 (commencing with Section 17131) is added to Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 3. Items Specifically Excluded from Gross Income

17131. Items that are specifically excluded from gross income shall be determined in accordance with Part III of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this article.

17132. Gross income does not include any amounts received by a taxpayer pursuant to Section 11034 of the Government Code.

17133. Gross income does not include income which this state is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this state.

17134. Gross income does not include stipends, meals, transportation, or other income received by a senior companion pursuant to Chapter 7 (commencing with Section 9520) of Division 8.5 of the Welfare and Institutions Code.

17135. Gross income does not include any stipends, meals, transportation, or other income received by a foster grandparent pursuant to Chapter 8 (commencing with Section 9540) of Division 8.5 of the Welfare and Institutions Code.

17137. The exemption of earnings of ship contractors prescribed by Section 130(a)(4) of the Internal Revenue Code shall not be applicable.

17138. Gross income does not include the salary, wages, bonuses, allowances, and other compensation received by an individual for his or her services on extended active duty as a member of the armed forces of the United States, including any auxiliary branch thereof, up to and including one thousand dollars ($1,000) per annum in the aggregate. For the purposes of this section and Section 17140, the term "extended active duty" means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

17139. Gross income does not include pensions and retirement pay received by an individual for his or her services as a member of the Armed Forces of the United States, including any auxiliary branch thereof, up to and including one thousand dollars ($1,000) per annum in the aggregate. In the case of a taxpayer whose adjusted gross income (determined without regard to the income exclusion

provided in the preceding sentence) for the taxable year exceeds fifteen thousand dollars ($15,000), the amount of the exclusion allowed by this section shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of fifteen thousand dollars ($15,000). For purposes of this section, if the taxpayer is married during any period of the taxable year, there shall be taken into account the combined adjusted gross income of the taxpayer and his or her spouse for that period. However, in the case where a taxpayer and his or her spouse each are qualified to claim the income exemption provided by this section, half of their combined adjusted gross income shall be attributable to each spouse.

17140. Gross income does not include salary, wages, bonuses, allowances, and other compensation received by an individual for his or her services on other than extended active duty as a member of the Armed Forces of the United States, including any auxiliary branch thereof, up to and including one thousand dollars ($1,000) per annum in the aggregate. In the case of a taxpayer whose adjusted gross income (determined without regard to the income exclusion provided in the preceding sentence) for the taxable year exceeds fifteen thousand dollars ($15,000), the amount of the exclusion allowed by this section shall be reduced by fifty cents ($0.50) for each one dollar ($1) of that income in excess of fifteen thousand dollars ($15,000). For purposes of this section, if the taxpayer is married during any period of the taxable year, there shall be taken into account the combined adjusted gross income of the taxpayer and his or her spouse for that period. However, in the case where a taxpayer and his or her spouse each are qualified to claim the income exemption provided by this section, half of their combined adjusted gross income shall be attributable to each spouse.

17142. The provisions of Section 128 of the Internal Revenue Code, relating to interest on certain savings certificates and partial exclusion of interest, shall not be applicable.

17143. The provisions of Sections 103 and 103A of the Internal Revenue Code, relating to interest on governmental obligations, shall not be applicable.

17144. The provisions of Section 116 of the Internal Revenue Code, relating to partial exclusion of dividends, shall not be applicable.

17145. (a) If, at the close of each quarter of its taxable year, at least 50 percent of the value of the total assets of a diversified management company consists of bonds issued by this state or a local government in this state, that company shall be qualified to pay exempt-interest dividends to its shareholders.

(b) For purposes of this section—

(1) The term "exempt-interest dividend" means any dividend or part thereof paid by a diversified management company in an amount not exceeding the interest received by it during its taxable year on bonds issued by this state or a local government in this state and designated by it as an exempt-interest dividend in a written

notice mailed to its shareholders not later than 45 days after the close of its taxable year.

(2) The term "diversified management company" means a corporation which meets the requirements of Section 23701m.

(3) The term "value" means, with respect to securities (other than those of majority-owned subsidiaries) for which market quotations are readily available, the market value of those securities; and with respect to other securities and assets, fair market value as determined in good faith by the board of directors, except that in the case of securities of majority-owned subsidiaries which are investment companies, as defined in the Investment Company Act of 1940, that fair value shall not exceed market value or asset value, whichever is higher.

(c) An exempt-interest dividend shall be treated by recipients thereof as an item of interest excludable from income under Section 17133.

17146. The compensation of employees of a foreign country shall be determined in accordance with Section 893 of the Internal Revenue Code.

SEC. 27. Article 4 (commencing with Section 17171) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 28. Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 29. Article 6 (commencing with Section 17201) is added to Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 6. Deductions

17201. Deductions shall be allowed in computing taxable income under Section 17073 and shall be determined in accordance with Parts VI, VII, and IX of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this article.

17211. (a) The maximum deduction for adoption expenses shall not exceed five hundred dollars ($500) in a separate return of a married person or one thousand dollars ($1,000) in any other return.

(b) Notwithstanding Section 222 of the Internal Revenue Code, the term "child with special needs" means a "hard to place child" as defined in Section 16116 of the Welfare and Institutions Code.

(c) A deduction shall be allowed for the "qualified adoption expenses," as defined by Section 222 of the Internal Revenue Code, of a child, other than a hard to place child, which exceed 3 percent of adjusted gross income, subject to the maximum limitation in subdivision (a).

17220. (a) No deduction shall be allowed for state, local, and foreign income, war profits, and excess profits taxes.

(b) A deduction shall be allowed for any of the following:

(1) Standby or availability charges or special taxes for fire suppression and police protection services imposed pursuant to Chapter 397 of the Statutes of 1979.

(2) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels subject to the conditions and limitations contained within this subdivision. If the amount 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 or her seller, that amount shall be treated as a tax imposed on, and paid by, that consumer and is subject to the conditions and limitations contained within this subdivision.

(A) The Franchise Tax Board shall establish, to the extent possible, a schedule of deductions which is substantially the same as the California State Gasoline Tax Guide as published in the 1980 Form 540 Individual Tax Instructions. The allowable deduction shall be approximately proportioned to the number of miles driven.

(B) (i) For taxpayers who reside in urban areas which do not meet the national ambient air quality standards for carbon monoxide or ozone pursuant to requirements of the National Clean Air Act, as amended (42 U.S.C. 7401 et seq.), the allowable deduction for taxable years beginning on or after January 1, 1983, and before January 1, 1984, shall be 25 percent of the amounts otherwise authorized to be deducted but shall not exceed twenty-seven dollars ($27).

(ii) This deduction limitation shall be applicable to the following areas which fail to meet national ambient air quality standards for carbon monoxide or ozone: the South Coast Air Basin; the San Francisco Bay Area Air Basin; the San Diego Air Basin; the Ventura County portion of the South Central Coast Air Basin; the Sacramento urbanized area; and the Fresno County portion of the San Joaquin Air Basin. This limitation shall also be applicable to any area which subsequently fails to meet national ambient air quality standards for carbon monoxide or ozone as determined by the State Air Resources Board. For purposes of this subparagraph, a taxpayer's place of residence shall be his or her principal place of residence as of April 15 of the taxable year for which the deduction is being claimed.

This subparagraph shall have no force or effect in any of the specified areas after such time as the State Air Resources Board finds that such area meets the national ambient air quality standards for carbon monoxide and ozone.

(iii) For taxable years beginning on or after January 1, 1984, no deduction shall be allowed under this subparagraph.

(C) (i) For all other taxpayers not described in subparagraph (B), the allowable deduction for taxable years beginning on or after January 1, 1983, and before January 1, 1984, shall be 25 percent of the amounts otherwise authorized to be deducted.

(ii) For taxable years beginning on or after January 1, 1984, no deduction shall be allowed under this subparagraph.

17222. No deduction shall be allowed for the tax deducted and

withheld under Section 18805 and Section 13020 of the Unemployment Insurance Code either to the employer or to the recipient of the income in computing taxable income under this part.

17223. There shall be allowed a ridesharing tax deduction for either or both of the following:

(a) The cost of monthly transit passes purchased for use by the taxpayer, or for use principally in this state by dependents listed on the return, except that no deduction shall be allowed for transit passes issued for the use of or used by elementary and secondary school students traveling to and from school. In the case of a husband and wife filing a joint return, the deduction provided by this subdivision shall be allowed to each spouse if a monthly transit pass is purchased by each spouse. The deduction shall be for the cost of each pass purchased, but shall not exceed seven dollars ($7) per month for each pass for any taxable year. For purposes of this subdivision, "monthly transit passes" means any single purchase of transit rides that entitles the purchaser to 40 or more rides per month (whether at a discount or at the base fare rate) within this state where evidence of purchase is furnished to the purchaser. For purposes of this subdivision, "transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(b) The cost of participation principally in this state, by the taxpayer or any dependent listed on the return, in a private third-party or employer-sponsored vanpool, buspool, or subscription taxipool. The deduction shall be allowed for the cost of participation to each vanpool, buspool, or subscription taxipool participant, but shall not exceed seven dollars ($7) per month for each person for any taxable year. For purposes of this subdivision, "vanpool" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to 15 passengers; "buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 passengers; "subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily fare basis, following a relatively fixed route tailored to meet the needs of the subscribers; and "third-party vanpool" means a vanpool that is not administered and operated by an employer or his or her employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other equipment and services available for use by employers and their employees.

(c) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date, and shall be applicable in the computation of taxes for taxable years beginning on or after January 1, 1982, and ending on or before

December 31, 1987.

17230. Payments made to the California Housing Finance Agency by the borrower pursuant to Section 52514 of the Health and Safety Code shall be considered payments of interest for purposes of Section 163 of the Internal Revenue Code.

17240. (a) No deduction shall be allowed for any of the following:

(1) That portion of contributions (including carryovers from prior years) which exceeds the maximum amount specified in Section 17241.

(2) Contributions allowed by Section 170(g) of the Internal Revenue Code (relating to maintenance of students).

(3) Contributions, allowed by Section 170(i) of the Internal Revenue Code, made prior to January 1, 1984.

(b) A deduction shall be allowed for any of the following:

(1) Transportation expenses described in Section 17242.

(2) Political contributions described in Section 17245.

(c) In determining the contribution deduction the following shall apply:

(1) Artistic property defined in Section 17243 shall be included and treated as a capital asset for taxable years beginning before January 1, 1985, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) The definitions and percentage limitations prescribed in Section 18162.5 shall be used in making the reduction required to be made under Section 170(e)(1) of the Internal Revenue Code for appreciated property.

(d) In determining the carryover of excess contributions as stated in Section 170(d)(1)(A) of the Internal Revenue Code, the carryover shall be determined as the amount by which the taxpayer's charitable contributions for the contribution year (as described in Section 170(b)(1)(A) of the Internal Revenue Code) exceed 20 percent of the taxpayer's adjusted gross income (computed without regard to the taxpayer's charitable contributions).

17241. Deductions for contributions or gifts shall be allowed to an amount which does not exceed 20 percent of the taxpayer's adjusted gross income.

17242. (a) Transportation expenses which are necessarily incurred in rendering donated services for an entity described in Section 170(c) of the Internal Revenue Code shall be treated as a contribution under paragraph (1) of subdivision (b) of Section 17240 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.

(d) 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 that date.

17243. For the purposes of subdivision (c) of Section 17240, artistic property is property created by the personal efforts of the taxpayer if all of the following exist:

(a) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of such taxpayer.

(b) The fair market value of the artistic property is established by independent appraisal.

(c) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

For the purposes of this section, the term "artistic property" includes musical, literary, and artistic creations but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of such office.

17244. The provisions of Section 170(e) of the Internal Revenue Code, relating to contributions of ordinary income and capital gain property, shall be modified as follows:

(a) The 40 percent reduction required by Section 170(e) (1) of the Internal Revenue Code shall not be applicable.

(b) The amount of reduction required by Section 170(e) (1) of the Internal Revenue Code shall be the amount of gain which would have been included in taxable income under paragraph (2) or (3) of subdivision (a) of Section 18162.5 if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of that contribution).

17245. In computing taxable income there shall be allowed as a deduction political contributions by any person not in excess of one hundred dollars ($100) (two hundred dollars ($200) on a joint return), in any year, except that no deduction shall be allowed for contributions which are designated pursuant to Section 18720.

17250. (a) The provisions of Section 168 of the Internal Revenue Code shall not be used to determine what is a reasonable allowance for purposes of Section 167(a) of the Internal Revenue Code.

(b) No deduction shall be allowed for any of the following:

(1) Amortization of certain railroad rolling stock as provided for

by Section 184 of the Internal Revenue Code.

(2) Amortization of railroad grading and tunnel bores as provided for by Section 185 of the Internal Revenue Code.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 17251, in lieu of Section 169 of the Internal Revenue Code.

(d) The capitalization of expenditures incurred in planting and developing fruit and nut groves shall be determined in accordance with Section 17261, in lieu of Section 278 of the Internal Revenue Code.

(e) There shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 36-month period for taxable years beginning before January 1, 1984.

17251. (a) Every taxpayer at his or her 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. That amortization deduction shall be an amount with respect to each month of that 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 that month divided by the number of months (including the month for which the deduction is computed) remaining in the period. That amortizable basis at the end of the month shall be computed without regard to the amortization deduction for that month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to that pollution control facility, cogeneration equipment, or alternative energy equipment for that month provided by Section 167 of the Internal Revenue Code. 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 that 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 that 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 that 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 that 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 that 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 that month. The depreciation deduction provided under Section 167 of the Internal Revenue Code 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 that 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 167 of the Internal Revenue Code, 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 167 of the Internal Revenue Code 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 1245 of the Internal Revenue Code.

(i) The amendments made to subdivision (d) of former Section 17226, which are contained in subdivision (d) of this section, by the 1977–78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Those amendments shall not apply in the case of any property with respect to which the amortization period under former Section 17226 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 1250 property under the Internal Revenue Code 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.

17252. (a) In the case of Section 17252 property, the term "reasonable allowance" as used in Section 167 of the Internal Revenue Code may, at the election of the taxpayer, include an allowance, for the first taxable year for which a deduction is allowable under subsections (a) to (h), inclusive, of Section 167 of the Internal Revenue Code to the taxpayer with respect to such property, of 20 percent of the cost of such property.

(b) If in any one taxable year the cost of Section 17252 property with respect to which the taxpayer may elect an allowance under subdivision (a) for that taxable year exceeds ten thousand dollars ($10,000), then subdivision (a) shall apply with respect to those items selected by the taxpayer, but only to the extent of an aggregate cost of ten thousand dollars ($10,000). In the case of a husband and wife who file a joint return for the taxable year, the limitation under the preceding sentence shall be twenty thousand dollars ($20,000) in lieu of ten thousand dollars ($10,000).

(c) (1) The election under this section for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for that taxable year. The election shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(2) Any election made under this section may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, the term "Section 17252 property" means tangible personal property—

(A) Of a character subject to the allowance for depreciation under subsections (a) to (h), inclusive, of Section 167 of the Internal Revenue Code.

(B) Acquired by purchase after December 31, 1958, for use in a trade or business or for holding for production of income, and

(C) With a useful life (determined at the time of such acquisition) of six years or more.

(2) For purposes of paragraph (1), the term "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707(b) of the Internal Revenue Code (but in applying Section 267(b) and (c) of the Internal Revenue Code for purposes of this section, Section 267(c) (4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants),

(B) The basis of the property in the hands of the person acquiring it is not determined—

(i) In whole or in part by reference to the adjusted basis of that property in the hands of the person from whom acquired, or

(ii) Under Section 1014(a) of the Internal Revenue Code (relating to property acquired from a decedent).

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to trusts.

(5) In the case of an estate, any amount apportioned to an heir, legatee, or devisee under Section 167(h) of the Internal Revenue Code shall not be taken into account in applying subdivision (b) of this section to Section 17252 property of that heir, legatee, or devisee not held by that estate.

(6) In the case of a partnership, the dollar limitation contained in the first sentence of subdivision (b) shall apply with respect to the partnership and with respect to each partner.

(7) In applying Section 167(g) of the Internal Revenue Code, the adjustment under Section 1016(a) (2) of the Internal Revenue Code resulting by reason of an election made under this section with respect to any Section 17252 property shall be made before any

deduction allowed as provided by Section 167(a) of the Internal Revenue Code is computed.

(e) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

17253. For property used in a trade or business or held for production of income, there shall be allowed as a depreciation deduction, a reasonable allowance for the cost of energy conservation measures over a 36-month period.

This section shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1986; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

17254. It is the intent of the Legislature that child development services be established in locations which make it convenient for eligible families who are employed, to be employed, or who are enrolled in employment training programs.

Owners of places of employment who establish facilities pursuant to Division 12.5 (commencing with Section 16700) of the Education Code and who allow for programs to be established pursuant to Division 12.5 (commencing with Section 16700) of the Education Code may elect, in accordance with regulations prescribed by the Franchise Tax Board, to compute the depreciation deduction provided by Section 167(a) of the Internal Revenue Code attributable to those facilities under the straight line method using a useful life of 60 months and no salvage value. That method shall be in lieu of any other method of computing the depreciation deduction under Section 167(a) of the Internal Revenue Code and shall be allowed only for that part of facilities which are certified by the State Department of Education as being used for child development services pursuant to Division 12.5 (commencing with Section 16700) of the Education Code.

17260. No deduction, other than depreciation shall be allowed for any of the following:

(a) Expenditures for tertiary injectants as provided by Section 193 of the Internal Revenue Code.

(b) Expenditures for certain depreciable business assets as provided by Section 179 of the Internal Revenue Code.

17261. (a) Except as provided in subdivision (b), any amount (allowable as a deduction without regard to this section), which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove, other fruit or nut grove or vineyard (or part thereof), and which is incurred before the close of the fourth taxable year beginning with the taxable year in which the trees were planted, shall be charged to capital account. For purposes of the preceding sentence, the portion of a citrus or almond

grove, other fruit or nut grove or vineyard planted in one taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(b) Subdivision (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus or almond grove, other fruit or nut grove or vineyard (or part thereof) which was:

(1) Replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests or casualty, or

(2) Planted or replanted prior to the enactment of former Section 17235 with respect to citrus groves, or planted or replanted prior to the effective date of the amendments to former Section 17235 at the 1971 First Extraordinary Session of the Legislature with respect to almond groves, or planted or replanted prior to the effective date of the amendments to that section at the 1975–76 Regular Session of the Legislature with respect to other fruit or nut groves, or planted or replanted prior to the effective date of the amendments to that section at the 1977–78 Regular Session of the Legislature with respect to vineyards.

17262. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of such building, facility or transportation vehicle. The installation of emergency egress/safe area refuge systems shall be eligible for such deductions.

(b) The deduction authorized by this section shall be taken with respect to the taxable year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any taxable year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence. If, however, the cost of that repair or remodeling exceeds the limit set forth in subdivision (g), the remaining balance may be charged to capital account.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer, the taxpayer's family, or the general public, in

the taxpayer's business or trade or the taxpayer's place of residence; provided, that such residence is located within the State of California.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed twenty-five thousand dollars ($25,000) with respect to any taxpayer for any taxable year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section, and may prescribe regulations as to the deductibility of repairs or remodeling with respect to residences in cooperation with the Department of Rehabilitation and the Office of the State Architect.

(i) This section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1985.

(j) (1) The State Fire Marshal in cooperation with the Department of Rehabilitation and the Department of Aging shall adopt building standards and regulations for emergency egress/safe area refuge systems. The building standards and regulations shall include, but not be limited to, minimum requirements for safety, reliability, durability and usability. Emergency egress/safe area refuge systems that comply with the building standards and regulations adopted pursuant to this section shall be eligible for the deduction provided by this section.

(2) It is the intent of the Legislature that this section and the building standards adopted pursuant to this section do not supersede more restrictive building standards and regulations adopted by the state and local governments.

(k) "Emergency egress/safe area refuge system" shall include, but not be limited to, all of the following:

(1) A building floor divided into not less than two compartments by not less than one-hour fire-resistive construction. Each door opening in such construction shall be protected by a twenty-minute fire-resistive assembly as defined in regulations of the State Fire Marshal. Duct openings shall be protected by single-blade or curtain-type fire dampers to restrict the passage of smoke or flame. The smaller of the compartmental areas shall be not less than one-fourth the floor area of the story. Each such compartment shall contain a stairway or elevator or other means of ready egress from the building.

(2) A fire alarm system defined in regulations by the State Fire Marshal.

(3) Use of existing exiting systems and warning devices when

practical, including, but not limited to, stairways, elevators, and fire alarms.

(4) Accommodations for wheelchairs and all attached wheelchair equipment, as well as wheelchair occupants.

(5) Its own power source.

17263. (a) In the case of a taxpayer engaged in the business of farming, expenditures made for the purpose of soil and water conservation and the prevention of erosion of land used in farming shall be allowed as deductions under Section 17201.

(b) For the purpose of subdivision (a), the term "expenditures made for the purpose of soil and water conservation and the prevention of erosion" means expenditures for the treatment, moving, or cultivation of earth, including (but not limited to) leveling, grading and terracing, contour furrowing, the construction of diversion channels and drainage ditches, the control and protection of watercourses, outlets, and ponds, the planting and cultivation of cover and protective crops or windbreaks, the control of weeds and brush and other emergency cultivation and tillage; but such term does not include the purchase, construction, installation, or improvement of structures, appliances, and facilities made of masonry, concrete, tile, metal, or wood such as tanks, reservoirs, pipes, conduits, canals, dams, wells, and pumps, which are subject to the allowance for depreciation provided in subsections (a) to (h), inclusive, of Section 167 of the Internal Revenue Code.

(c) For the purpose of subdivision (a), the term "land used in farming" means land used (prior to the expenditure for conservation made by the taxpayer) by the taxpayer or his or her tenant or the predecessor owner or his or her tenant for the production of crops, fruits, and similar agricultural products or for the sustenance of livestock.

(d) The provisions of this section shall be applied in accordance with Sections 175(d) and 175(e) of the Internal Revenue Code.

17270. (a) For purposes of Section 162(a)(2) of the Internal Revenue Code, relating to travel expenses—

(1) The place of residence of a member of the Legislature within the district represented shall be considered the tax home; and

(2) The provisions of Section 162(h) of the Internal Revenue Code, relating to state legislators' travel expenses away from home, shall not be applied.

(b) The deduction for soil and water conservation expenditures shall be determined in accordance with Section 17263, in lieu of Section 175 of the Internal Revenue Code.

(c) The denial of deductions for expenses and interest relating to tax-exempt income shall be determined in accordance with Section 17280, in lieu of Section 265 of the Internal Revenue Code.

(d) The expenditures to remove architectural and transportation barriers shall be determined in accordance with Section 17262, in lieu of Section 190 of the Internal Revenue Code.

(e) The provisions of Section 280C of the Internal Revenue Code

(relating to credits for work incentive programs (Section 40 of the Internal Revenue Code) and employment of certain new employees (Section 44B of the Internal Revenue Code)) shall not be applicable.

(f) The provisions of Section 280D of the Internal Revenue Code (relating to credits for windfall profits tax) shall not be applicable.

17272. (a) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 15 percent of the compensation includable in the individual's gross income for that taxable year.

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(c) The provisions of Section 219(b)(4) of the Internal Revenue Code relating to divorced persons are not applicable.

(d) No deduction shall be allowed for an individual for the taxable year if for any part of that year:

(1) He or she was an active participant in any of the following:

(A) A plan described in Section 401(a) of the Internal Revenue Code which includes a trust exempt from tax under Section 501(a) of the Internal Revenue Code.

(B) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(C) A qualified bond purchase plan described in Section 405(a) of the Internal Revenue Code.

(D) A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(2) Amounts were contributed by his or her employer for an annuity contract described in Section 403(b) of the Internal Revenue Code (whether or not his or her rights in that contract are nonforfeitable).

(e) (1) A member of a reserve component of the armed forces (as defined in Section 261(a) of Title 10 of the United States Code) is not considered to be an active participant in a plan solely because he or she is a member of a reserve component unless he or she has served in excess of 90 days on active duty (other than active duty for training) during the year.

(2) An individual whose participation in a plan is based solely upon his or her activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an

annual benefit of one thousand eight hundred dollars ($1,800) (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.

(f) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (a) for the taxable year.

17273. (a) The provisions of Section 280A(c)(4) of the Internal Revenue Code, relating to day care services, shall not be applicable.

(b) The provisions of Section 280A of the Internal Revenue Code shall not apply to any owner-occupied dwelling which is receiving the homeowner's exemption pursuant to Section 218.

17274. (a) Notwithstanding any other provisions in this part to the contrary, in the case of a taxpayer who derives rental income from substandard housing located in this state, no deduction shall be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year with respect to that substandard housing, except as provided in subdivision (c).

(b) Substandard housing means housing which (1) has been determined by a state or local government regulatory agency to violate state law or local codes dealing with health, safety, or building; and (2) after written notice of violation by the regulatory agency, specifying the applicability of this section, has not been brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is later; or on which good faith efforts for compliance have not been commenced, as determined by the regulatory agency. The regulatory agency may, for good cause shown, extend the compliance date prescribed in a violation notice.

(c) When the period specified in subdivision (b) has expired without compliance, the regulatory agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in such form and shall include such information as may be prescribed by the Franchise Tax Board, shall be mailed by certified mail to the taxpayer at his last known address, and shall advise the taxpayer (1) of an intent to notify the Franchise Tax Board of such noncompliance within 10 days unless an appeal is filed, (2) where an appeal may be filed, and (3) a general description of the tax consequences of such filing with the Franchise Tax Board. Appeals shall be made to the same body and in the same manner as appeals from other actions of the regulatory agency. If no appeal is made within 10 days or after disposition of the appeal if the regulatory agency is sustained, the regulatory agency shall notify the Franchise Tax Board of such

noncompliance. No deduction shall be allowed for the items provided in subdivision (a) from the date of the notice of noncompliance until the date the regulatory agency determines that the substandard housing has been brought to a condition of compliance. The regulatory agency shall mail to the Franchise Tax Board and the taxpayer a notice of compliance, which notice shall be in such form and include such information as may be prescribed by the Franchise Tax Board. In the event the period of noncompliance does not cover an entire taxable year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

If the property is owned by more than one owner or if recorded title is in the name of a fictitious owner, the notice requirements provided in subdivision (b) and this subdivision shall be satisfied for each owner if the notices are mailed to one owner or to the fictitious name owner at the address appearing on the latest available property tax bill. However, notices made pursuant to this subdivision shall not relieve the regulatory agency from furnishing taxpayer identification information required to implement this section to the Franchise Tax Board.

(d) For the purposes of this section, a notice of noncompliance shall not be mailed by the regulatory agency to the Franchise Tax Board if:

(1) The rental housing was rendered substandard solely by reason of earthquake, flood or other natural disaster except where such condition remains for more than three years after the disaster,

(2) The owner of the rental housing has secured financing to bring such housing into compliance with those laws or codes which have been violated, causing such housing to be classified as substandard, and has commenced repairs or other work necessary to bring such housing into compliance or

(3) The owner of rental housing which is not within the meaning of housing accommodation as defined by subdivision (d) of Section 35805 of the Health and Safety Code has attempted to:

(A) Secure financing to bring such housing into compliance with those laws or codes which have been violated, causing such housing to be classified as substandard; and

(B) Such financing is denied solely because such housing is located in a neighborhood or geographical area in which financial institutions do not provide financing for rehabilitation of any such housing.

(e) The provisions of this section do not apply to deductions from income derived from property rendered substandard solely by reason of a change in applicable state or local housing standards unless such violations cause substantial danger to the occupants of such property, as determined by the regulatory agency which has served notice of violation pursuant to subdivision (b).

(f) The owner of rental housing found to be in noncompliance shall, upon total or partial divestiture of interest in such property,

immediately notify the regulatory agency of the name and address of the person or persons to whom the property has been sold or otherwise transferred and the date of the sale or transference.

(g) By July 1st of each year, the regulatory agency shall report to the appropriate legislative body of its jurisdiction all of the following information, for the preceding calendar year, regarding its activities to secure code enforcement, which shall be public information:

(1) The number of written notices of violation issued for substandard dwellings under subdivision (b).

(2) The number of violations complied with within the period prescribed in subdivision (b).

(3) The number of notices of noncompliance issued pursuant to subdivision (c).

(4) The number of appeals from those notices pursuant to subdivision (c).

(5) The number of successful appeals by owners.

(6) The number of notices of noncompliance mailed to the Franchise Tax Board pursuant to subdivision (c).

(7) The number of cases in which a notice of noncompliance was not sent pursuant to the provision of subdivision (d).

(8) The number of extensions for compliance granted pursuant to subdivision (b) and the mean average length of such extensions.

(9) The mean average length of time from the issuance of a notice of violation to the mailing of a notice of noncompliance to the Franchise Tax Board where such notice is actually sent to the Franchise Tax Board.

(10) The number of cases where compliance is achieved after a notice of noncompliance has been mailed to the Franchise Tax Board.

(11) The number of instances of disallowance of tax deductions by the Franchise Tax Board resulting from referrals made by the regulatory agency. This information may be filed in a supplemental report in succeeding years as it becomes available.

17275. In computing taxable income, no deduction shall be allowed for any of the following:

(a) Abandonment fees paid under Section 51061 or 51093 of the Government Code.

(b) Tax recoupment fees paid under Section 51142 of the Government Code.

17276. No deduction shall be allowed as provided by Section 172 of the Internal Revenue Code, relating to net operating losses.

17277. In the case of an individual whose former residence was outside this state and his or her new place of residence is located within this state, or whose former residence is located in this state and his or her new place of residence is located outside this state, the deduction allowed by this section shall be allowed only if any amount received as payment for or reimbursement of expenses of moving from one residence to another residence is includable in gross income as provided by Section 82 of the Internal Revenue Code and

the amount of deduction shall be limited only to the amount of that payment or reimbursement or the amounts specified in Section 217(b) of the Internal Revenue Code, whichever amount is the lesser.

17280. (a) No deduction shall be denied as provided by Section 265 of the Internal Revenue Code, relating to expenses and interest relating to tax-exempt income.

(b) No deduction shall be allowed for any of the following:

(1) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this part, or any amount otherwise allowable under Section 212 of the Internal Revenue Code (relating to expenses for production of income) which is allocable to interest (whether or not any amount of such interest is received or accrued) wholly exempt from the taxes imposed by this part.

(2) Interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by this part. The proper apportionment and allocation of the deduction with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the Franchise Tax Board.

(3) Interest on indebtedness incurred or continued to purchase or carry shares of stock of a diversified management company which during the taxable year of the holder thereof distributes exempt-interest dividends.

17281. In computing taxable income, no deductions shall be allowed to any taxpayer on any of his or her gross income directly derived from illegal activities as defined in Chapter 9, 10 or 10.5 of Title 9 of Part 1 of the Penal Code of California; nor shall any deductions be allowed to any taxpayer on any of his gross income derived from any other activities which directly tend to promote or to further, or are directly connected or associated with, those illegal activities. A prior, final determination by a court of competent jurisdiction of the state in any criminal proceedings or any proceeding in which the state, county, city and county, city or other political subdivision was a party thereto on the merits of the legality of the activities of a taxpayer or predecessor in interest of a taxpayer shall be binding upon the Franchise Tax Board and State Board of Equalization.

17282. (a) In computing taxable income, no deductions (including deductions for cost of goods sold) shall be allowed to any taxpayer on any of his or her gross income directly derived from illegal activities as defined in Chapter 4 (commencing with Section 211) of Title 8 of, Chapter 8 (commencing with Section 314) of Title 9 of, or Chapter 2 (commencing with Section 459), Chapter 4 (commencing with Section 484), or Chapter 5 (commencing with Section 503) of Title 13 of, Part 1 of the Penal Code, or as defined in

Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code; nor shall any deductions be allowed to any taxpayer on any of his or her gross income derived from any other activities which directly tend to promote or to further, or are directly connected or associated with, those illegal activities.

(b) A prior, final determination by a court of competent jurisdiction of this state in any criminal proceedings or any proceeding in which the state, county, city and county, city, or other political subdivision was a party thereto on the merits of the legality of the activities of a taxpayer or predecessor in interest of a taxpayer shall be binding upon the Franchise Tax Board and the State Board of Equalization.

(c) This section shall be applied with respect to taxable years which have not been closed by a statute of limitations, res judicata, or otherwise.

17283. No deduction shall be denied as provided by Section 276 of the Internal Revenue Code, relating to certain indirect contributions to political parties.

SEC. 29.5. Section 17240 is added to the Revenue and Taxation Code, to read:

17240. (a) No deduction shall be allowed for any of the following:

(1) That portion of contributions (including carryovers from prior years) which exceeds the maximum amount specified in Section 17241.

(2) Contributions allowed by Section 170(g) of the Internal Revenue Code (relating to maintenance of students).

(3) Contributions, allowed by Section 170(i) of the Internal Revenue Code, made prior to January 1, 1984.

(b) A deduction shall be allowed for any of the following:

(1) Transportation expenses described in Section 17242.

(2) Political contributions described in Section 17245.

(c) In determining the contribution deduction the following shall apply:

(1) Artistic property defined in Section 17243 shall be included and treated as a capital asset for taxable years beginning before January 1, 1989, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2)(A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of such taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph "artistic property" includes musical, literary, and artistic creations but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1988.

(3) The definitions and percentage limitations prescribed in Section 18162.5 shall be used in making the reduction required to be made under Section 170(e)(1) of the Internal Revenue Code for appreciated property.

(d) In determining the carryover of excess contributions as stated in Section 170(d)(1)(A) of the Internal Revenue Code, the carryover shall be determined as the amount by which the taxpayer's charitable contributions for the contribution year (as described in Section 170(b)(1)(A) of the Internal Revenue Code) exceed 20 percent of the taxpayer's adjusted gross income (computed without regard to the taxpayer's charitable contributions).

SEC. 30. Article 7 (commencing with Section 17251) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 31. Article 8 (commencing with Section 17281) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 32. Chapter 4 (commencing with Section 17321) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 33. Chapter 4 (commencing with Section 17321) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 4. CORPORATE DISTRIBUTIONS AND ADJUSTMENTS

17321. The taxation of corporate distributions and adjustments thereto shall be determined in accordance with Subchapter C of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter.

17322. For purposes of Section 302(c) (2) of the Internal Revenue Code, the periods of limitation to be extended for one year are the periods provided in Sections 18586 and 18831.

17323. The provisions of Section 305(e) of the Internal Revenue Code, relating to dividend reinvestment in stock of public utilities, shall not be applicable.

17324. A request filed pursuant to Section 367(a) (1) of the Internal Revenue Code, relating to transfers of property to foreign corporations, shall not be required to be filed by the close of the 183rd day after the beginning of such transfer, but shall be filed in accordance with such regulations as the Franchise Tax Board may prescribe.

SEC. 34. Chapter 4.5 (commencing with Section 17490) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 35. Chapter 5 (commencing with Section 17501) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 36. Chapter 5 (commencing with Section 17501) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 5. DEFERRED COMPENSATION

17501. The taxation of deferred compensation shall be determined in accordance with Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter.

17502. The limitation on contributions provided by Section 401(e) of the Internal Revenue Code shall be two thousand five hundred dollars ($2,500).

17503. The provisions of Section 401(j) of the Internal Revenue Code, relating to defined benefit plans for self-employed individuals, shall be modified as follows:

(a) The limitation on annual compensation provided by Section 401(j) (2) (A) of the Internal Revenue Code shall be twenty-five thousand dollars ($25,000).

(b) The applicable percentage provided by Section 401(j) (3) (A) of the Internal Revenue Code shall be the following:

Age when participation began:	Applicable percentage
30 or less	3.5
35	2.8
40	2.3
45	1.8
50	1.5
55	1.2
60 or over	1.0

17504. The provisions of Section 402(a) of the Internal Revenue Code, relating to taxability of beneficiaries of exempt trusts, shall be

modified as follows:

(a) Any amount qualifying for capital gain treatment under Section 402(a)(2) of the Internal Revenue Code shall be treated as a gain from the sale of exchange of a capital asset held for more than five years.

(b) Section 402(a)(2) of the Internal Revenue Code shall not apply to any distribution to the extent that such distribution is attributable to contributions made on behalf of the employee while he or she was an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code.

17505. The provisions of Section 402(e) of the Internal Revenue Code, relating to a separate tax on lump-sum distributions, shall be modified as follows:

(a) Paragraph (1), relating to imposition of a separate tax, shall not be applicable.

(b) Paragraph (2), relating to multiple distributions, shall not be applicable.

(c) Paragraph (3), relating to allowance of a deduction, shall not be applicable.

17506. The provisions of Section 403(a) of the Internal Revenue Code, relating to taxation of employee annuities, shall be modified as follows:

(a) Any amount qualifying for capital gain treatment under Section 403(a)(2) of the Internal Revenue Code shall be treated as a gain from the sale or exchange of a capital asset held for more than five years.

(b) Section 403(a)(2) of the Internal Revenue Code shall not apply to any distribution to the extent that such distribution is attributable to contributions made on behalf of the employee while he or she was an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code.

17507. The provisions of Section 408 of the Internal Revenue Code, relating to individual retirement accounts, shall be modified as follows:

(a) The following provisions shall be incorporated into Section 408(e) of the Internal Revenue Code:

(1) In the case of such a plan in existence in taxable year 1975 where contributions were made pursuant to, and in conformance with, Section 408 or 409 of the Internal Revenue Code of 1954, as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), any net income attributable to the 1975 contribution shall not be includable in the gross income, for taxable year 1977 or succeeding taxable years, of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(2) In the case of a simplified employee pension, where contributions are also made pursuant to, and in conformance with, the provisions of Section 408(k) of the Internal Revenue Code of 1954, as amended by Public Law 97-34, the net income attributable

to the nondeductible portion of such contributions shall not be includable in the gross income of the individual for whose benefit the plan was established for the taxable year or for succeeding taxable years until distributed pursuant to the provisions of the plan or by operation of law.

(3) Notwithstanding the limitations provided in Section 17272 with respect to the amount of deductible contributions and individuals eligible for the deduction, any income attributable to contributions made to a plan in existence in taxable years beginning on or after January 1, 1982, in conformance with Sections 219, 220, 408, and 409 of the Internal Revenue Code of 1954, as amended by Public Law 97-34, shall not be includable in the gross income of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law. The Franchise Tax Board shall prescribe regulations with respect to the determination of the amount of the income included in the amount distributed or deemed distributed by operation of law which is includable in the individual's gross income in the taxable year in which the distribution is received or deemed distributed by operation of law.

(b) The additional tax imposed by Section 408(f) of the Internal Revenue Code shall be an amount equal to 2½ percent of the amount required to be included in gross income.

17508. The additional tax imposed by Section 409(c) of the Internal Revenue Code shall be an amount equal to 2½ percent of the amount required to be included in gross income.

17509. Sections 413(b) (6) and 413(c) (5) of the Internal Revenue Code, relating to liability for funding tax, shall not be applicable.

17510. Section 415 of the Internal Revenue Code, relating to limitations on benefits and contributions to qualified plans, is modified as follows:

(a) Section 415(c) (6) of the Internal Revenue Code, relating to a special limitation for an employee stock ownership plan, shall not be applicable.

(b) In the case where contributions are made to a defined contribution plan and an employee stock ownership plan, the following shall apply:

(1) The defined contribution plan shall not be disqualified because of the provisions of subdivision (a).

(2) The amount deductible under Section 404(a) (3) of the Internal Revenue Code is subject to the limitations provided in Section 415(c) of the Internal Revenue Code.

(3) The net income attributable to the nondeductible portion shall not be included in the gross income of the employee for the taxable year or for succeeding taxable years until distributed pursuant to a provision of the plan or by operation of law.

17511. The provisions of Section 421(c) (2) of the Internal Revenue Code, relating to a deduction for estate tax, shall not be applicable.

17513. The provisions of Section 404(e) of the Internal Revenue Code, relating to special limitations for self-employed individuals, shall be modified as follows:

(a) The amounts deductible shall not exceed two thousand five hundred dollars ($2,500) or 10 percent of the earned income derived by the employee from the trade or business with respect to which the plan is established, whichever is the lesser.

(b) The provisions of Section 404(e)(4) of the Internal Revenue Code shall not be applicable.

SEC. 37. Chapter 6 (commencing with Section 17551) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 38. Chapter 6 (commencing with Section 17551) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 6. ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

17551. Accounting periods and methods of accounting shall be determined in accordance with Subchapter E of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter.

17552. (a) A return for a period of less than 12 months, required by Section 443 of the Internal Revenue Code, shall also be made when the Franchise Tax Board terminates the taxpayer's taxable year under Section 18642 (relating to tax in jeopardy).

(b) The provisions of Section 443(c) of the Internal Revenue Code, relating to adjustment in deduction for personal exemption, shall be applied to the credit allowed under Section 17054 in lieu of the deduction allowed by Section 151 of the Internal Revenue Code.

(c) The provisions of Section 443(d) of the Internal Revenue Code shall not be applicable.

17553. The provisions of Section 454(c) of the Internal Revenue Code, relating to matured United States Savings Bonds, shall not be applicable.

17554. When the status of a taxpayer changes from resident to nonresident, or from nonresident to resident, there shall be included in determining income from sources within or without this state, as the case may be, income and deductions accrued prior to the change of status even though not otherwise includable in respect of the period prior to that change, but the taxation or deduction of items accrued prior to the change of status shall not be affected by the change.

17555. In any case where husband and wife file separate returns, the Franchise Tax Board may distribute, apportion or allocate gross income between the spouses, if it is determined that such distribution, apportionment or allocation is necessary in order to reflect the proper income of the spouses.

SEC. 39. Section 17631 of the Revenue and Taxation Code is amended to read:

17631. An organization described in Section 401(a) of the Internal Revenue Code shall be exempt from taxation under this part unless such exemption is denied under Sections 17635 to 17639, inclusive.

SEC. 40. Section 17635 of the Revenue and Taxation Code is amended to read:

17635. (a) An organization described in Section 401(a) of the Internal Revenue Code which is subject to the provisions of this section shall not be exempt from taxation under Section 17631 if it has engaged in a prohibited transaction after December 31, 1960.

(b) An organization described in Section 401(a) of the Internal Revenue Code shall be denied exemption from taxation under Section 17631 by reason of subsection (a) only for taxable years after the taxable year during which it is notified by the Franchise Tax Board that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

SEC. 41. Section 17636 of the Revenue and Taxation Code is amended to read:

17636. Sections 17635 to 17639, inclusive, apply to any organization described in Section 401(a) of the Internal Revenue Code.

SEC. 42. Section 17637 of the Revenue and Taxation Code is amended to read:

17637. For purposes of Sections 17635 to 17639, inclusive, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of Sections 17635 to 17639, inclusive—

(a) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(b) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(c) Makes any part of its services available on a preferential basis to;

(d) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(e) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth to; or

(f) Engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in Section 267(c)(4) of the Internal Revenue Code) of an individual who is the creator of such trust or who has

made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

SEC. 43. Section 17638 of the Revenue and Taxation Code is amended to read:

17638. Any organization described in Section 401(a) of the Internal Revenue Code or a trust which is denied exemption under Section 17631 by reason of Section 17635, with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Franchise Tax Board, file claim for exemption, and if the Franchise Tax Board, pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years after the year in which such claim is filed.

SEC. 44. Section 17639 of the Revenue and Taxation Code is amended to read:

17639. For purposes of subdivision (a) of Section 17637, a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this section referred to as "obligation") acquired by a trust described in Section 401(a) of the Internal Revenue Code shall not be treated as a loan made without the receipt of adequate security if—

(a) Such obligation is acquired—

(1) On the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the trust than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(2) From an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(3) Directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(b) Immediately following acquisition of such obligation—

(1) Not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the trust, and

(2) At least 50 percent of the aggregate amount referred to in subparagraph (1) is held by persons independent of the issuer; and

(c) Immediately following acquisition of the obligation, not more

than 25 percent of the assets of the trust is invested in obligations of persons described in Section 17637.

SEC. 45. Section 17640 of the Revenue and Taxation Code is amended to read:

17640. Subdivision (a) of Section 17637 shall not apply to a loan made by a trust described in Section 401 (a) of the Internal Revenue Code to the employer (or to a renewal of such a loan or, if the loan is repayable upon demand, to a continuation of such a loan) if the loan bears a reasonable rate of interest, and if (in the case of a making or renewal)—

(a) The employer is prohibited (at the time of such making or renewal) by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets;

(b) The making or renewal, as the case may be, is approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and no other such trustee had previously refused to give such written approval; and

(c) Immediately following the making or renewal, as the case may be, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust.

For purposes of paragraph (b), the term "trustee" means, with respect to any trust for which there is more than one trustee who is independent of the employer, a majority of such independent trustees. For purposes of paragraph (c), the determination as to whether any amount loaned by the trust to the employer is loaned without the receipt of adequate security shall be made without regard to Section 17639.

SEC. 46. Section 17641 of the Revenue and Taxation Code is amended to read:

17641. (a) In the case of a trust described in Section 401 (a) of the Internal Revenue Code which is part of a plan providing contributions or benefits for employees some or all of whom are owner-employees (as defined in Section 401 (c) (3) of the Internal Revenue Code) who control (within the meaning of Section 401 (d) (9) (B) of the Internal Revenue Code) the trade or business with respect to which the plan is established, the term "prohibited transaction" also means any transaction in which such trust, directly or indirectly—

(1) Lends any part of the corpus or income of the trust to;

(2) Pays any compensation for personal services rendered to the trust to;

(3) Makes any part of its services available on a preferential basis to; or

(4) Acquires for the trust any property from, or sells any property to;

any person described in Section 17637 or to any such owner-employee, a member of the family (as defined in Section 267(c)(4) of the Internal Revenue Code) of any such owner-employee, or a corporation controlled by any such owner-employee through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

(b) For purposes of the application of subdivision (a)(1), the following rules shall apply with respect to a loan made before the date of the enactment of this section which would be a prohibited transaction if made in a taxable year beginning after December 31, 1968.

(1) If any part of the loan is repayable prior to December 31, 1969, the renewal of such part of the loan for a period not extending beyond December 31, 1969, on the same terms, shall not be considered a prohibited transaction.

(2) If the loan is repayable on demand, the continuation of the loan beyond December 31, 1969, shall be considered a prohibited transaction.

SEC. 47. Article 3 (commencing with Section 17671) of Chapter 7 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 48. Article 3 (commencing with Section 17671) is added to Chapter 7 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 3. Common Trust Funds

17671. The taxation of common trust funds shall be determined in accordance with Section 584 of Subchapter H of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this article.

17672. In computing the taxable income of a common trust fund, the deduction provided by Section 17245, relating to political contributions, shall not be allowed.

17677. Every trust company operating a common trust fund shall make a return under penalties of perjury for each taxable year, stating specifically with respect to such fund the items of gross income and the deductions allowed by this article and shall include in the return information sufficient to identify the trusts and estates entitled to share in the taxable income of the common trust fund and the amount of the proportionate share of each such participant.

SEC. 49. Section 17681 of the Revenue and Taxation Code is amended to read:

17681. (a) In the case of mines, oil and gas wells, other natural deposits, and timber, there shall be allowed as a deduction in computing taxable income a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar

conditions in each case; such reasonable allowance in all cases to be made under regulations prescribed by the Franchise Tax Board. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this section for subsequent taxable years shall be based on such revised estimate.

(b) (1) In the case of a lease, the deduction under this section shall be equitably apportioned between the lessor and lessee.

(2) In the case of property held by one person for life with the 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 allowed to the life tenant.

(3) In the case of property held in trust, the deduction under this section shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

(4) In the case of an estate, the deduction under this section shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the income of the estate allocable to each.

SEC. 50. Section 17682 of the Revenue and Taxation Code is amended to read:

17682. The basis upon which depletion is to be allowed in respect to any property shall be the adjusted basis provided in Section 1011 of the Internal Revenue Code, for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in the remainder of this article.

SEC. 51. Section 17686 of the Revenue and Taxation Code is amended to read:

17686. (a) In the case of oil, gas, and geothermal wells the allowance for depletion under Section 17681 shall be 22 percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 percent of the taxable income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this section. For purposes of the preceding sentence, the allowable deductions taken into account with respect to expenses of oil, gas, and geothermal wells in computing the taxable income from the property shall be decreased by an amount equal to so much of any gain which (A) is treated under Section 1245 of the Internal Revenue Code (relating to gain from disposition of certain depreciable property) as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 1231 of the Internal Revenue Code, and (B) is properly allocable to the property.

(b) Where the total accumulated amount of deduction allowed or

allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery through depletion under this part, percentage depletion shall be allowed in respect to such interests in such property, subject to the limitations and adjustments of subdivisions (c) and (d).

(c) Where the total depletion allowance for all properties in subdivision (b) exceeds one million five hundred thousand dollars ($1,500,000), the allowance in subdivision (b) shall be reduced by 125 percent of the excess.

(d) In any case where husband and wife file separate returns, the amount specified in subdivision (c) shall be seven hundred fifty thousand dollars ($750,000) in lieu of one million five hundred thousand dollars ($1,500,000).

(e) For purposes of this section, a "geothermal deposit" means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure).

SEC. 52. Section 17687 of the Revenue and Taxation Code is amended to read:

17687. The allowance for depletion under Section 17681 shall be:

(a) In the case of sand, gravel, slate, stone (including pumice and scoria), brick and tile clay, shale, oystershell, clamshell, granite, marble, sodium chloride, and, if from brine wells, calcium chloride, magnesium chloride, and bromide, 5 percent;

(b) In the case of coal, asbestos, brucite, dolomite, magnesite, perlite, wollastonite, calcium carbonates, and magnesium carbonates, 10 percent;

(c) In the case of metal mines, aplite, bauxite, fluorspar, flake graphite, vermiculite, beryl, garnet, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, ball clay, sagger clay, china clay, phosphate rock, rock asphalt, trona, bentonite, gilsonite, thenardite, borax, fuller's earth, tripoli, refractory and fire clay, quartzite, diatomaceous earth, metallurgical grade limestone, chemical grade limestone, and potash, 15 percent;

(d) In the case of sulfur, 22 percent; of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 percent of the taxable income of the taxpayer (computed without allowance for depletion) from the property except in no case shall the depletion allowance under Section 17681 be less than it would be if computed without reference to this section. For purposes of the preceding sentence, the allowable deductions taken into account with respect to expenses of mining in computing the taxable income from the property shall be decreased by an amount equal to so much of any gain which (1) is treated under Section 1245 of the Internal Revenue Code (relating to gain from disposition of certain depreciable property) as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 1231

of the Internal Revenue Code, and (2) is properly allocable to the property.

SEC. 53. Section 17689 of the Revenue and Taxation Code is repealed.

SEC. 54. Section 17689.5 of the Revenue and Taxation Code is amended to read:

17689.5. (a) (1) At the election of the taxpayer, expenditures paid or incurred during the taxable year for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, and paid or incurred before the beginning of the development stage of the mine, shall be allowed as a deduction in computing taxable income. This subdivision shall apply only with respect to the amount of such expenditures which, but for this subdivision, would not be allowable as a deduction for the taxable year. This subdivision shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code, but allowances for depreciation shall be considered, for purposes of this subdivision, as expenditures paid or incurred. In no case shall this subdivision apply with respect to amounts paid or incurred for the purposes of ascertaining the existence, location, extent, or quality of any deposit of oil or gas or of any mineral with respect to which a deduction for percentage depletion is not allowable under Sections 17686 to 17688, inclusive.

(2) (A) Any election under this subdivision shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(B) The election provided by paragraph (1) for the taxable year may be made at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this part for the taxable year. Such an election for the taxable year shall apply to all expenditures described in paragraph (1) paid or incurred by the taxpayer during the taxable year or during any subsequent taxable year.

(C) The statutory period for the assessment of any deficiency for any taxable year, to the extent such deficiency is attributable to an election or revocation of an election under this subdivision, shall not expire before the last day of the three-year period beginning on the day after the date on which such election or revocation of election is made; and such deficiency may be assessed at any time before the expiration of such three-year period, notwithstanding any law or rule of law which would otherwise prevent such assessment.

(b) (1) If, in any taxable year, any mine with respect to which expenditures were deducted pursuant to subdivision (a) reaches the producing state, then—

(A) If the taxpayer so elects with respect to all such mines reaching the producing stage during the taxable year, he shall include in gross income for the taxable year an amount equal to the adjusted exploration expenditures with respect to such mines, and the amount so included in income shall be treated for purposes of this

part as expenditures which (i) are paid or incurred on the respective dates on which the mines reach the producing stage, and (ii) are properly chargeable to capital account.

(B) If subparagraph (A) does not apply with respect to any such mine, then the deduction for depletion under Section 17681 with respect to the property shall be disallowed until the amount of depletion which would be allowable but for this subparagraph equals the amount of the adjusted exploration expenditures with respect to such mine.

(2) (A) Any election under this subdivision shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(B) The election provided by paragraph (1) for any taxable year may be made or changed not later than the time prescribed by law for filing the return (including extensions thereof) for such taxable year.

(c) If an election has been made under subdivision (a) with respect to expenditures relating to a mining property and the taxpayer receives or accrues a bonus or a royalty with respect to such property, then the deduction for depletion under Section 17681 with respect to the bonus or royalty shall be disallowed until the amount of depletion which would be allowable but for this subdivision equals the amount of the adjusted exploration expenditures with respect to the property to which the bonus or royalty relates.

(d) (1) Except as otherwise provided in this subdivision, if mining property is disposed of the lower of—

(A) The adjusted exploration expenditures with respect to such property, or

(B) The excess of—

(i) The amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value (in the case of any other disposition), over

(ii) The adjusted basis of such property,

shall be treated as gain from the sale or exchange of property which is neither a capital asset or property described in Section 1231 of the Internal Revenue Code. Such gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of paragraph (1)—

(A) In the case of the disposition of a portion of a mining property (other than an undivided interest), the entire amount of the adjusted exploration expenditures with respect to such property shall be treated as attributable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

(B) In the case of the disposition of an undivided interest in a mining property (or a portion thereof), a proportionate part of the adjusted exploration expenditures with respect to such property shall be treated as attributable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditure to the extent the taxpayer establishes to the satisfaction of the Franchise Tax Board

that such expenditure relates neither to the portion (or interest therein) disposed of nor to any mine, in the property held by the taxpayer before the disposition which has reached the producing stage.

(3) Paragraphs (1), (2), and (3) of subsection (b) of Section 1245 of the Internal Revenue Code (relating to exceptions and limitations with respect to gain from disposition of certain depreciable property) shall apply in respect of this subdivision in the same manner and with the same effect as if references in Section 1245(b) of the Internal Revenue Code to Section 1245 of the Internal Revenue Code or any provision thereof were references to this subdivision or the corresponding provisions of this subdivision and as if references to Section 1245 of the Internal Revenue Code property were references to mining property.

(4) This subdivision shall apply notwithstanding any other provisions of this part.

(e) (1) The basis of any property shall not be reduced by the amount of any depletion which would be allowable but for the application of this section.

(2) The Franchise Tax Board shall prescribe such regulations as it may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under paragraph (1) of subdivision (d).

(f) For purposes of this section—

(1) The term "adjusted exploration expenditures" means, with respect to any property or mine—

(A) The amount of the expenditures allowed for the taxable year and all preceding taxable years as deductions under subdivision (a) to the taxpayer or any other person which are properly chargeable to such property or mine and which (but for the election under subdivision (a)) would be reflected in the adjusted basis of such property or mine, reduced by

(B) For the taxable year and for each preceding taxable year, the amount (if any) by which (i) the amount which would have been allowable for percentage depletion under Sections 17686 to 17688, inclusive, but for the deduction of such expenditures, exceeds (ii) the amount allowable for depletion under Section 17681

properly adjusted for any amounts included in gross income under subdivision (b) or (c) and for any amounts of gain to which subdivision (d) applied.

(2) The term "mining property" means any property (within the meaning of Section 614 of the Internal Revenue Code after the application of subdivisions (c) and (e) thereof) with respect to which any expenditures allowed as a deduction under paragraph (1) of subdivision (a) are properly chargeable.

(g) (1) In the case of any property or mine received by the taxpayer in a distribution with respect to part or all of his interest in a partnership, the adjusted exploration expenditures with respect to

such property or mine include the adjusted exploration expenditures (not otherwise included under paragraph (1) subdivision (f)) with respect to such property or mine immediately prior to such distribution, but the adjusted exploration expenditures with respect to any such property or mine shall be reduced by the amount of gain to which Section 751(b) of the Internal Revenue Code applied realized by the partnership (as constituted after the distribution) on the distribution of such property or mine.

(2) In the case of any property or mine held by a partnership after a distribution to a partner to which Section 751(b) of the Internal Revenue Code applied, the adjusted exploration expenditures with respect to such property or mine shall, under regulations prescribed by the Franchise Tax Board be reduced by the amount of gain to which Section 751(b) of the Internal Revenue Code applied realized by such partner with respect to such distribution on account of such property or mine.

(h) (1) Subdivision (a) shall apply to any amount paid or incurred after December 31, 1970, with respect to any deposit of ore or other mineral located outside the United States, only to the extent that such amount, when added to the amounts which are or have been deducted under subdivision (a) of this section and subdivision (a) of former Section 17689 and the amounts which are or have been treated as deferred expenses under subdivision (b) of former Section 17689 or the corresponding provisions of prior law, does not exceed four hundred thousand dollars ($400,000).

(2) For purposes of paragraph (1), there shall be taken into account amounts deducted and amounts treated as deferred expenses by—

(A) The taxpayer, and

(B) Any individual or corporation who has transferred to the taxpayer any mineral property.

(3) Subparagraph (B) of paragraph (2) shall apply with respect to all amounts deducted and all amounts treated as deferred expenses which were paid or incurred before the latest such transfer from the individual or corporation to the taxpayer. Subparagraph (B) of paragraph (2) shall apply only if the taxpayer acquired any mineral property from the individual or corporation under circumstances which make Section 1082(c) of the Internal Revenue Code, subdivision (b) of Section 24504, Section 24552, 24553, 24575, subdivision (a) of Section 24577, Section 24961, or 24988 of the Bank and Corporation Tax Law apply to such transfer.

(i) This section shall apply with respect to exploration expenditures paid or incurred after December 31, 1970.

SEC. 55. Section 17690 of the Revenue and Taxation Code is amended to read:

17690. (a) Except as provided in subsection (b), there shall be allowed as a deduction in computing taxable income all expenditures paid or incurred during the taxable year for the development of a mine or other natural deposit (other than an oil, gas, or geothermal

well) if paid or incurred after the existence of ores or minerals in commercially marketable quantities has been disclosed. This section shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code, but allowances for depreciation shall be considered, for purposes of this section, as expenditures.

(b) At the election of the taxpayer, made in accordance with regulations prescribed by the Franchise Tax Board, expenditures described in subsection (a) paid or incurred during the taxable year shall be treated as deferred expenses and shall be deductible on a ratable basis as the units of produced ores or minerals benefited by such expenditures are sold. In the case of such expenditures paid or incurred during the development stage of the mine or deposit, the election shall apply only with respect to the excess of such expenditures during the taxable year over the net receipts during the taxable year from the ores or minerals produced from such mine or deposit. The election under this subsection, if made, must be for the total amount of such expenditures, or the total amount of such excess, as the case may be, with respect to the mine or deposit, and shall be binding for such taxable year.

(c) The amount of expenditures which are treated under subsection (b) as deferred expenses shall be taken into account in computing the adjusted basis of the mine or deposit, except that such amount, and the adjustments to basis provided in Section 1016(a) (9) of the Internal Revenue Code, shall be disregarded in determining the adjusted basis of the property for the purpose of computing a deduction for depletion under Section 17681.

SEC. 56. Article 2 (commencing with Section 17711) of Chapter 8 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 57. Article 2 (commencing with Section 17711) is added to Chapter 8 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. Sales and Exchanges

17711. Gain or loss in the case of timber shall be determined in accordance with Sections 631 (a) and 631 (b) of the Internal Revenue Code.

SEC. 58. Chapter 9 (commencing with Section 17731) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 59. Chapter 9 (commencing with Section 17731) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 9. ESTATES, TRUSTS, BENEFICIARIES, AND DECEDENTS

17731. The taxation of estates, trusts, beneficiaries, and decedents shall be determined in accordance with Subchapter J of Chapter 1

of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter.

17732. No deduction shall be allowed for the personal exemption provided by Section 642(b) of the Internal Revenue Code.

17733. An estate shall be allowed a credit against the tax imposed of ten dollars ($10). A trust shall be allowed a credit against the tax imposed of one dollar ($1). The credits allowed by this section shall be in lieu of the credits allowed under Section 17054 (relating to credit for personal exemption).

17734. In the case of a nonresident beneficiary, income derived through an estate or trust is taxable only to the extent it is derived from sources within this state.

17740. Distributions received from real estate investment trusts pursuant to Section 24413 shall be treated as received by the shareholder or holder of a beneficial interest in the taxable year in which the distribution is made.

17742. (a) Except as otherwise provided in this chapter, the income of an estate or trust is taxable to the estate or trust. The tax applies to the entire taxable income of an estate, if the decedent was a resident, regardless of the residence of the fiduciary or beneficiary, and to the entire taxable income of a trust, if the fiduciary or beneficiary (other than a beneficiary whose interest in such trust is contingent) is a resident, regardless of the residence of the settlor.

(b) For purposes of this article the residence of a corporate fiduciary of a trust means the place where the corporation transacts the major portion of its administration of the trust.

17743. Where the taxability of income under this chapter depends on the residence of the fiduciary and there are two or more fiduciaries for the trust, the income taxable under Section 17742 shall be apportioned according to the number of fiduciaries resident in this state pursuant to rules and regulations prescribed by the Franchise Tax Board.

17744. Where the taxability of income under this chapter depends on the residence of the beneficiary and there are two or more beneficiaries of the trust, the income taxable under Section 17742 shall be apportioned according to the number and interest of beneficiaries resident in this state pursuant to rules and regulations prescribed by the Franchise Tax Board.

17745. (a) If, for any reason, the taxes imposed on income of a trust which is taxable to the trust because the fiduciary or beneficiary is a resident of this state are not paid when due and remain unpaid when that income is distributable to the beneficiary, or in case the income is distributable to the beneficiary before the taxes are due, if the taxes are not paid when due, such income shall be taxable to the beneficiary when distributable to him except that in the case of a nonresident beneficiary such income shall be taxable only to the extent it is derived from sources within this state.

(b) If no taxes have been paid on the current or accumulated income of the trust because the resident beneficiary's interest in the

trust was contingent such income shall be taxable to the beneficiary when distributed or distributable to him or her.

(c) The tax on that income which is taxable to the beneficiary under subdivisions (a) or (b) is a tax on the receipt of that income distributed or on the constructive receipt of that distributable income. For purposes of this section income accumulated by a trust continues to be income even though the trust provides that the income (ordinary or capital) shall become a part of the corpus.

(d) The tax attributable to the inclusion of that income in the gross income of that beneficiary for the year that income is distributed or distributable under subdivision (b) shall be the aggregate of the taxes which would have been attributable to that income had it been included in the gross income of that beneficiary ratably for the year of distribution and the five preceding taxable years, or for the period that the trust accumulated or acquired income for that contingent beneficiary, whichever period is the shorter.

(e) In the event that a person is a resident beneficiary during the period of accumulation, and leaves this state within 12 months prior to the date of distribution of accumulated income and returns to the state within 12 months after distribution, it shall be presumed that the beneficiary continued to be a resident of this state throughout the time of distribution.

(f) The Franchise Tax Board shall prescribe such regulations as it deems necessary for the application of this section.

17745.1. The amendments of Sections 17742 and 17745 made at the 1963 Regular Session of the Legislature shall be applicable only with respect to taxable years beginning after December 31, 1962. Whether or not the income of a trust which is or was accumulated or is or was accumulated and distributed or accumulated and distributable is taxable by California for the years prior to 1963 shall be determined as if Sections 17742 and 17745 had not been amended at the 1963 Regular Session of the Legislature and without inferences drawn from the fact that such amendments were not made applicable with respect to taxable years beginning before January 1, 1963.

17779. Sections 665 to 668, inclusive, of the Internal Revenue Code shall not apply to distributions described in subdivision (b) of Section 17745.

SEC. 60. Chapter 10 (commencing with Section 17851) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 61. Chapter 10 (commencing with Section 17851) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 10. PARTNERS AND PARTNERSHIPS

17851. The taxation of partners and partnerships shall be determined in accordance with Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise

provided in this chapter.

17852. In determining his or her income tax, each partner shall also take into account separately his or her distributive share of the partnership's political contributions.

17853. (a) The following deductions shall not be allowed to the partnership:

(1) The deduction for taxes provided in Section 164(a) of the Internal Revenue Code with respect to taxes, described in Section 18006, paid to another state.

(2) The deduction for political contributions provided by Section 17245.

17854. In the case of a nonresident partner, guaranteed payments, as defined by Section 707(c) of the Internal Revenue Code, shall be gross income from sources within this state.

17855. The term "unrealized receivables," as defined by Section 751(c) of the Internal Revenue Code, shall not include any of the following:

(a) Stock in certain foreign corporations, as described in Section 1248 of the Internal Revenue Code.

(b) Oil, gas, or geothermal property, described in Section 1254 of the Internal Revenue Code.

17856. The provisions of Section 751(d)(2)(C) of the Internal Revenue Code, relating to appreciated inventory items subject to tax as a gain on foreign investment company stock, shall not be applicable.

17857. The provisions of Section 751(e) of the Internal Revenue Code, relating to the limitation of tax on gains from certain sales or exchanges of stock in certain foreign corporations, shall not be applicable.

17932. Every partnership shall make a return for each taxable year, stating specifically the items of gross income and the deductions allowed by this part. The return shall include the names and addresses of the persons, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each person. The return shall contain or be verified by a written declaration that it is made under the penalties of perjury, signed by one of the partners.

SEC. 62. Chapter 13 (commencing with Section 18031) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 63. Chapter 13 (commencing with Section 18031) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 13. GAIN OR LOSS ON DISPOSITION OF PROPERTY

18031. Gain or loss on disposition of property shall be determined in accordance with Subchapter O of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter.

18032. Section 1014(a) of the Internal Revenue Code, relating to

the basis of property acquired from a decedent, shall be modified as follows:

(a) The value determined under Section 1014(a)(1) of the Internal Revenue Code shall be the fair market value of the property at the time of its acquisition.

(b) Sections 1014(a)(2) and 1014(a)(3) of the Internal Revenue Code shall not be applicable.

18033. Section 1014(b) of the Internal Revenue Code, relating to property acquired from a decedent, shall be modified as follows:

(a) Sections 1014(b)(5) through (9), inclusive, shall not be applicable.

(b) The following property shall be considered to have been acquired from or to have passed from the decedent:

(1) In case of decedents dying on or after January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory or possession of the United States or any foreign country, if the decedent's one-half of the whole of the community interest in such property was transferred, within the meaning of Chapter 3 of the California Inheritance Tax Law, to someone other than the surviving spouse.

(2) In the case of decedents dying after April 8, 1953, but before January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in such property was includable in determining the value of the decedent's gross estate under Chapter 3 of the California Inheritance Tax Law.

(3) In the case of decedents dying after December 31, 1952, and before the annuity starting date, if such date is on or after January 1, 1968, property which represents the survivor's interest in a joint and survivor's annuity if the value of any part of such interest was required to be included in determining the value of decedent's gross estate under the California Inheritance Tax Law.

(4) In the case of decedents dying after December 31, 1954, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or nonexercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's estate under Division 2, Part 8 of the Revenue and Taxation Code. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under Section 1014(a) of the Internal Revenue Code reduced by the amount allowed to the taxpayer as deductions in computing taxable income under this part or prior income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death

of the decedent. This paragraph shall not apply to—

(A) Property described in any other subdivision of this section; and

(B) Annuities described in Sections 72(a) to 72(*l*), inclusive, of the Internal Revenue Code.

18034. Section 1015(d) (6) of the Internal Revenue Code, relating to increased basis for gift tax on gifts made after December 31, 1976, shall not be applicable.

18035. The provisions of Section 1039 of the Internal Revenue Code, relating to certain sales of low-income housing projects, shall not be applicable.

18036. (a) In addition to the adjustments to basis provided by Section 1016(a) of the Internal Revenue Code, a proper adjustment shall also be made for amounts allowed as deductions as deferred expenses under subdivision (b) of former 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 that section for the taxable year and prior years.

(b) Notwithstanding the provisions of Section 1016(a) of the Internal Revenue Code, no adjustment to basis shall be made for either of the following:

(1) Abandonment fees paid in respect of property on which the open-space easement is terminated under Section 51061 or 51093 of the Government Code.

(2) Tax recoupment fees paid under Section 51142 of the Government Code.

(c) The provisions of Section 1016(c) of the Internal Revenue Code, relating to increase in basis of property on which additional estate tax is imposed, shall not be applicable.

18037. The provisions of Section 1033(g) (3) (A) of the Internal Revenue Code, relating to the election to treat outdoor advertising displays as real property, shall be modified as follows:

(a) The election shall not be denied because the taxpayer has, on his or her federal return, claimed an investment credit or elected to expense the asset.

(b) The deduction shall be allowed only if an election is in effect for such property under Section 17252, relating to an additional first-year depreciation allowance.

18038. The provisions of Section 1040 of the Internal Revenue Code, relating to transfer of certain real property, shall not be applicable.

18039. The provisions of Section 1052 of the Internal Revenue Code, relating to basis established by prior revenue acts, shall be modified as follows:

(a) Section 1052(c) of the Internal Revenue Code shall not be applicable.

(b) If the property was acquired, after February 28, 1913, in a transaction to which the Personal Income Tax Law of 1954 applied,

and the basis thereof, for purposes of the Personal Income Tax Law of 1954, was prescribed by Section 17747, 17751, 17755, 17756, 17757, 17758, or 17788 of such law, then for purposes of this part the basis shall be the same as the basis therein prescribed in the Personal Income Tax Law of 1954.

18040. The provisions of Section 1059 of the Internal Revenue Code, relating to nonrecognition of gain for certain vessels, shall not be applicable.

SEC. 64. Chapter 14 (commencing with Section 18152) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 65. Chapter 14 (commencing with Section 18151) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 14. GENERAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

18151. Capital gains and losses shall be determined in accordance with Subchapter P of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter.

18152. (a) Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) whichever of the following is smallest:

(1) The taxable income for the taxable year, or

(2) One thousand dollars ($1,000).

(b) In the case of a husband or wife who files a separate return, the amount specified in paragraph (2) of subdivision (a) shall be five hundred dollars ($500) in lieu of one thousand dollars ($1,000).

(c) For purposes of subdivision (a), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets.

(d) If a taxpayer has a net capital loss for any taxable year the excess of such net capital loss shall be a capital loss in the succeeding taxable year.

18153. Capital losses shall be limited in accordance with Section 18152 in lieu of Section 1211 of the Internal Revenue Code.

18154. Capital loss carryovers shall be limited in accordance with Section 18152, in lieu of Section 1212 of the Internal Revenue Code.

18155. No deduction shall be allowed for capital loss carrybacks provided by Section 1212 of the Internal Revenue Code.

18162.5. (a) In the case of any taxpayer, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset, except gains from small business stock or nonproductive assets, shall be taken into account in computing taxable income:

(1) One hundred percent if the capital asset has been held for not more than one year.

(2) Sixty-five percent if the capital asset has been held for more than one year but not more than five years.

(3) Fifty percent if the capital asset has been held more than five years.

(b) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of small business stock shall be taken into account in computing taxable income:

(1) One hundred percent if the small business stock has been held for not more than one year.

(2) Sixty-five percent if the small business stock has been held for more than one year but not more than three years.

(3) Zero percent if the small business stock has been held for more than three years, and if at the time of sale, the fair market value (as defined in Section 110) of land owned or controlled by the corporation does not exceed 25 percent of the fair market value of the corporation (as reflected in the price at which the stock was sold).

(c) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of nonproductive assets shall be taken into account in computing taxable income:

(1) One hundred percent if the nonproductive asset has been held for not more than one year.

(2) Seventy percent if the nonproductive asset has been held for more than one year but not more than five years.

(3) Fifty percent if the nonproductive asset has been held for more than five years.

(d) Subdivision (b) shall apply with respect to small business stock acquired after September 16, 1981.

(e) For purposes of this section, "small business stock" is an equity security issued by a corporation which has the following characteristics at the time of acquisition by the taxpayer:

(1) The commercial domicile or primary place of business is located within California.

(2) The total employment of the corporation is no more than 500 employees, as measured by the number of employees covered by federal unemployment insurance on December 31 of the year preceding acquisition of the small business stock, a majority of which employees were covered by California unemployment insurance on December 31 of the year preceding acquisition of the small business stock; provided, that, if more than 50 percent of the outstanding equity securities of all classes are held by another corporation, the employment of the controlling corporation shall be counted as employment of the eligible corporation for purposes of this section.

(3) The outstanding issues of the corporations, including those held by the taxpayer, are not listed on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation system.

(4) No more than 25 percent of gross receipts in the immediate prior income year were obtained from rents, interests, dividends, or sales of assets.

(5) The corporation is not engaged primarily in the business of

holding land.

(f) For purposes of this section, a "nonproductive asset" is any piece of property which is any of the following:

(1) A precious or strategic metal, including but not limited to, gold, silver, and platinum, except when used by the taxpayer in his or her trade or business.

(2) Jewelry or individual gems, except when used by the taxpayer in his or her trade or business.

(3) Objects of art, except when used by the taxpayer in his or her trade or business.

(4) Antique items, including but not limited to, furniture, automobiles, coins, and ceramic objects, except when used by the taxpayer in his trade or business.

(5) Stamps, except when used by the taxpayer in his or her trade or business.

18169. The definition of property used in the trade or business, as defined by Section 1231(b) of the Internal Revenue Code, shall not include coal and iron ore.

18170. The provisions of Section 1245(a)(5) and (6) of the Internal Revenue Code, relating to recovery property, shall not be applicable.

18171. The provisions of Section 1250(b) of the Internal Revenue Code, relating to additional depreciation, shall be modified as follows:

(a) "Depreciation adjustments," as defined in Section 1250(b)(3), shall not include the following:

(1) For taxable years beginning on or after January 1, 1983, amortization under Section 17251 or under Section 188 of the Internal Revenue Code.

(2) For taxable years beginning prior to January 1, 1983, amortization under former Section 17226, relating to pollution control facilities, or former Section 17227, relating to trademarks.

(b) "Additional depreciation," as defined in Section 1250(b)(4) of the Internal Revenue Code, shall not include the following:

(1) For taxable years beginning on or after January 1, 1983, amortization under Section 167(k) of the Internal Revenue Code.

(2) For taxable years beginning before January 1, 1983, amortization under former Section 17211.7, relating to low-income rental housing, or former Section 17228.5, relating to certified historic structures.

18172. The following provisions of the Internal Revenue Code, relating to qualified low-income housing, shall not be applicable:

(a) Section 1250(d)(8) of the Internal Revenue Code.

(b) Section 1250(e)(4) of the Internal Revenue Code.

(c) Section 1250(g) of the Internal Revenue Code.

18173. Section 1250(a) of the Internal Revenue Code shall not apply to residential rental property which is two or more dwelling units in the same structure situated in California and under the same ownership described in Section 167(j)(2) of the Internal Revenue

Code.

(b) The provisions of this section shall be operative only in those taxable years in which substantially similar provisions are operative in federal law, and shall cease to be operative on January 1, 1988, and on that date are repealed.

(c) This section shall apply only to residential real property the construction of which is commenced after December 31, 1982.

18174. The provisions of Section 1251 of the Internal Revenue Code, relating to gain from disposition of property used in farming where farm losses offset nonfarm income, shall not be applicable.

18175. The provisions of Section 1254(b)(2) of the Internal Revenue Code, relating to the sale or exchange of stock in an electing small business corporation, shall not be applicable.

SEC. 67. Section 18242 of the Revenue and Taxation Code is amended to read:

18242. (a) For purposes of this article, the term "averageable income" means the amount by which taxable income for the computation year (reduced as provided in subdivision (b)) exceeds 133⅓ percent of average base period income.

(b) The taxable income for the computation year shall be reduced by—

(1) The amount (if any) to which Section 72(m) of the Internal Revenue Code applies, and

(2) The amounts included in the income of a beneficiary of a trust under Section 667(a) of the Internal Revenue Code and subdivision (b) of Section 17745.

(c) For purposes of this article—

(1) The term "average base period income" means one-fourth of the sum of the base period incomes for the base period.

(2) The base period income for any taxable year is the taxable income for such year—

(A) Decreased by the amounts included in the income of a beneficiary of a trust under Section 667(a) of the Internal Revenue Code and subdivision (b) of Section 17745; and

(B) For base period years beginning before January 1, 1983, increased by—

(i) Three thousand sixty dollars ($3,060) in the case of a joint return, head of household (as defined by Section 17042), or a surviving spouse.

(ii) Two thousand three hundred dollars ($2,300) in the case of a joint custody head of household (as defined by Section 17042.5).

(iii) One thousand five hundred thirty dollars ($1,530) in the case of a married individual filing a separate return or an individual who is not married and not a surviving spouse.

For purposes of this subparagraph, filing status shall be determined as of the computation year.

(d) For purposes of this article—

(1) The term "computation year" means the taxable year for which the taxpayer chooses the benefits of this article.

(2) The term "base period" means the four taxable years immediately preceding the computation year.

(3) The term "base period year" means any of the four taxable years immediately preceding the computation year.

(4) The term "joint return" means the return of a husband and wife made under Section 18402.

SEC. 68. Section 18243 of the Revenue and Taxation Code is amended to read:

18243. (a) Except as otherwise provided in this section, for purposes of this article the term "eligible individual" means any individual who is a resident of this state throughout the computation year.

(b) For purposes of this article, an individual shall not be an eligible individual for the computation year if, at any time during such year or the base period, such individual was a nonresident.

(c) (1) For purposes of this article, an individual shall not be an eligible individual for the computation year if, for any base period year, such individual (and his spouse) furnished less than one-half of his support.

(2) Paragraph (1) shall not apply to any computation year if—

(A) Such year ends after the individual attained age 25 and, during at least four of his taxable years beginning after he attained age 21 and ending with his computation year, he was not a full-time student.

(B) More than one-half of the individual's taxable income for the computation year is attributable to work performed by him in substantial part during two or more of the base period years, or

(C) The individual makes a joint return for the computation year and not more than 25 percent of the aggregate adjusted gross income of such individual and his spouse for the computation year is attributable to such individual

(d) For purposes of this section, the term "student" means, with respect to a taxable year, an individual who during each of five calendar months during such taxable year—

(1) Was a full-time student at an educational institution (as defined in Section 170(b) (1) (A) (ii) of the Internal Revenue Code); or

(2) Was pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution (as defined in Section 170(b) (1) (A) (ii) of the Internal Revenue Code) or of a state or political subdivision of a state.

SEC. 69. Section 18244 of the Revenue and Taxation Code is amended to read:

18244. (a) This article shall apply to the taxable year only if the taxpayer chooses to have the benefits of this article for such taxable year. Such choice may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this part for the taxable year.

(b) If the taxpayer chooses the benefits of this article for the taxable year, subdivision (b) of Section 17085 (relating to limitation of tax in case of certain distributions with respect to contributions by self-employed individuals) shall not apply to him for such year.

(c) (1) Paragraph (2) of this subdivision shall apply in the case of any individual who was married for any base period year or the computation year; except that such paragraphs shall not apply in respect of a base period year if—

(A) Such individual and his spouse make a joint return for the computation year, and

(B) Such individual was not married to any other spouse for such base period year.

(2) For purposes of this article, the base period income of an individual for any base period year shall not be less than 50 percent of the base period income which would result from combining his income and deductions for such year—

(A) With the income and deductions for such year of the individual who is his spouse for the computation year, or

(B) If greater, with the income and deductions for such year of the individual who was his spouse for such base period year.

(3) For purposes of this subdivision, Section 17173 shall apply in determining whether an individual is married for any taxable year.

(d) In the case of joint return, the three thousand dollars ($3,000) figure contained in Section 18241 shall be applied to the aggregate averageable income.

(e) (1) Section 72(m) of the Internal Revenue Code (relating to penalties applicable to certain amounts received by owner-employees) shall be applied as if this article had not been enacted.

(2) Except as otherwise provided in this article, the order and manner in which items of income or limitations on tax shall be taken into account in computing the tax imposed by this part on the income of any eligible individual to whom Section 18241 applies for any computation year shall be determined under regulations prescribed by the Franchise Tax Board.

(f) In the case of any computation year or base period year which is a short taxable year, this article shall be applied in the manner provided in regulations prescribed by the Franchise Tax Board.

SEC. 70. Section 18246 of the Revenue and Taxation Code is repealed.

SEC. 71. Article 2 (commencing with Section 18301) of Chapter 15 of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 72. Chapter 16 (commencing with Section 18351) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 73. Chapter 16 (commencing with Section 18351) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 16. MITIGATION OF EFFECT OF RENEGOTIATION OF GOVERNMENT CONTRACTS

18351. Mitigation of effect of renegotiation of government contracts shall be determined in accordance with Subchapter B of Chapter 4 of Subtitle A of the Internal Revenue Code.

SEC. 74. Section 18402 of the Revenue and Taxation Code is amended to read:

18402. If a husband and wife have for the taxable year an aggregate adjusted gross income of over ten thousand dollars ($10,000) without preference income, or an aggregate gross income of over twelve thousand dollars ($12,000), or a total amount of the preference items in excess of eight thousand dollars ($8,000)—

(a) Each shall make such a return, or

(b) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income, as provided in Section 17045. No joint return shall be made if: (1) one spouse was a resident for the entire year and the other spouse was a nonresident for all or any portion of the taxable year (this exception shall not apply if the nonresident or his or her spouse was an active member of the armed forces or any auxiliary branch thereof during the taxable year), or (2) husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his or her taxable year, nor if the taxable year of either spouse is a fractional part of a year under Section 443(a) of the Internal Revenue Code.

(c) In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the decedent's executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse if (1) no return for the taxable year has been made by the decedent, (2) no executor or administrator has been appointed, and (3) no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his or her separate return.

SEC. 75. Section 18402.7 of the Revenue and Taxation Code is amended to read:

18402.7. For purposes of Sections 18401 and 18402, gross income shall be computed without regard to the exclusion provided for in

Section 121 of the Internal Revenue Code, relating to the one-time exclusion of gain from the sale of principal residence by an individual who has attained age 55.

SEC. 75.5. Section 18405.1 of the Revenue and Taxation Code is amended to read:

18405.1. A trust which qualifies under Section 401(a) of the Internal Revenue Code and which is exempt need not file a return unless it changes the character of its organization, the purpose for which it was organized, or its method of operation or unless the trust has unrelated business taxable income. Where an exempt trust has unrelated business taxable income which exceeds one thousand dollars ($1,000) it shall file a return, verified by an executive officer under penalties of perjury in the form prescribed by the Franchise Tax Board on or before the 15th day of the fourth month following the close of the income year.

SEC. 76. Section 18452 of the Revenue and Taxation Code is amended to read:

18452. Every trust claiming a charitable, religious, scientific, literary, or educational deduction under Section 642(c) of the Internal Revenue Code for the taxable year shall furnish information with respect to such taxable year, at such time and in such manner as the Franchise Tax Board may by regulations prescribe, setting forth—

(a) The amount of the charitable, religious, scientific, literary, or educational deduction taken under Section 642(c) of the Internal Revenue Code within such year (showing separately the amount of such deduction which was paid out and the amount which was permanently set aside for charitable, religious, scientific, literary, or educational purposes during such year);

(b) The amount paid out within such year which represents amounts for which charitable, religious, scientific, literary, or educational deductions under Section 642(c) of the Internal Revenue Code have been taken in prior years;

(c) The amount for which charitable, religious, scientific, literary, or educational deductions have been taken in prior years but which has not been paid out at the beginning of such year;

(d) The amount paid out of principal in the current and prior years for charitable, religious, scientific, literary, or educational purposes;

(e) The total income of the trust within such year and the expenses attributable thereto; and

(f) A balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

This section shall not apply in the case of a taxable year if all the taxable income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries.

SEC. 77. Section 18471 of the Revenue and Taxation Code is amended to read:

18471. (a) If refund or cred it of overpayment for any taxable year resulting from the application of Section 112(d) of the Internal Revenue Code (including interest, additions to the tax, and additional amounts) is prevented at any time before the expiration of the applicable period specified in subdivision (b) of this section by the operation of any law or rule of law, such refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such applicable period.

(b) For purposes of this section, the applicable period for any individual with respect to any compensation is the period ending on whichever of the following days is later:

(1) The day which is one year after the effective date of this subdivision, or

(2) The day which is two years after the date on which the individual's missing status (within the meaning of Section 112(d) of the Internal Revenue Code) has terminated for purposes of Section 112(d) of the Internal Revenue Code.

SEC. 78. Section 18586.4 of the Revenue and Taxation Code is amended to read:

18586.4. In the case of a deficiency described in Section 1034(j) of the Internal Revenue Code, such deficiency may be assessed at any time prior to the expiration of the time therein provided.

SEC. 79. Section 18586.5 of the Revenue and Taxation Code is amended to read:

18586.5. In case of a deficiency described in Sections 1033(a)(2)(C) and 1033(a)(2)(D) of the Internal Revenue Code, such deficiency may be assessed at any time prior to the expiration of the time therein provided.

SEC. 80. Section 18698.5 of the Revenue and Taxation Code is amended to read:

18698.5. If—

(a) A taxpayer fails to make the report required under Section 1092(a)(3)(B) of the Internal Revenue Code in the manner prescribed by that section and that failure is not due to reasonable cause, and

(b) That taxpayer has an underpayment of any tax attributable (in whole or in part) to the denial of a deduction of a loss with respect to any position (within the meaning of Section 1092(d)(2) of the Internal Revenue Code),

then that underpayment shall, for purposes of Section 18684, be treated as an underpayment due to negligence or intentional disregard of rules and regulations (but without intent to defraud).

SEC. 81. Chapter 18.5 (commencing with Section 18701) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 18.5. CALIFORNIA ELECTION CAMPAIGN FUND ACT

Article 1. Findings and Policy

18701. This chapter shall be known and may be cited as the California Election Campaign Fund Act.

18702. The Legislature finds and declares:

(a) Candidates are now frequently dependent on large contributions from wealthy individuals and interest groups for campaign financing. Individuals and interest groups who make large contributions thus may enjoy disproportionate access to public officials and influence in government decisionmaking. Large contributions may also impede the solicitation of small contributions.

(b) This act seeks to reduce candidate dependence on large contributions and the excessive influence of large contributors, by providing qualified political parties with a campaign fund based on small contributions, which fund shall be used to assist candidates under the direction of the state parties and certain of their elected representatives.

Article 2. Designation by Individuals

18720. (a) Every individual, who is lawfully able to make contributions to qualified political parties in California, may designate the payment of one dollar ($1), five dollars ($5), ten dollars ($10), or twenty-five dollars ($25), in addition to his or her income tax liability to be paid over to the California Election Campaign Fund in accordance with the provisions of this article. In the case of a joint return of individuals, each spouse may separately designate that one dollar ($1), five dollars ($5), ten dollars ($10), or twenty-five dollars ($25), shall be paid to that fund.

(b) For the purposes of subdivision (a), the California income tax liability of an individual for any taxable year is the amount of his or her total income tax liability for that taxable year pursuant to the applicable provisions of this code.

(c) If an individual chooses to contribute an amount as provided for in subdivision (a) to the California Election Campaign Fund under subdivision (a), he or she shall designate on the applicable California tax return which of the qualified political parties of the State of California the contribution shall benefit. The Franchise Tax Board shall revise the forms for reporting California tax liability in accordance with this section.

Article 3. Payment to Qualified Political Parties

18740. (a) There is hereby established in the State Treasury a special fund to be known as the California Election Campaign Fund (hereafter referred to as "the fund"), to which the Controller shall transfer an amount not in excess of the sum of the amounts certified by the Franchise Tax Board under subdivision (b). There is hereby appropriated to the fund for each fiscal year from the General Fund, an amount equal to the sum of the amounts so certified during each fiscal year, which shall remain available to the fund without fiscal

year limitation; provided, however, that the Controller and the Franchise Tax Board may designate a reasonable amount to be retained by the state from the fund in order to compensate the state for reasonable administrative expenses connected with the operation of the fund.

(b) (1) On or before July 1 of each year, the Franchise Tax Board shall certify to the Controller the total amount designated by April 15 of that year for the benefit of each qualified political party in accordance with this section. On or before July 15 of each year, the Controller shall pay to each qualified political party from the fund the amount so certified.

(2) The Chair of the State Central Committee of each qualified political party is hereby authorized to receive payments on behalf of that party from the fund.

Article 4. Qualification of Political Parties: Disbursement of Funds

18760. On or before each calendar year, the Secretary of State shall forward to the Franchise Tax Board a list of qualified political parties. Qualification in the State of California shall be determined in accordance with Section 6430 of the Elections Code from the most recent election for which officially canvassed results are available. Any sums designated to a political party which are not qualified pursuant to this section shall be retained by the state for its General Fund.

(a) The Chair of the State Central Committee of each political party receiving payments pursuant to this chapter shall segregate those moneys and disburse them only upon his or her determination that a majority of a committee composed as follows concurs in each such disbursement:

(1) Chair of that party.

(2) As to the majority party of the Assembly, its Speaker; or, as to each minority party of the Assembly, that party's Minority Leader.

(3) As to the majority party of the Senate, its President pro Tempore; or, as to each minority party of the Senate, that party's Minority Leader.

(b) As to any party unrepresented by both paragraphs (2) and (3) of subdivision (a), its chair shall be the sole member of the committee provided for in subdivision (a).

(c) As to any party unrepresented by one, but not both, of the categories specified in paragraphs (2) and (3) of subdivision (a), the two members of that committee provided for by subdivision (a) shall choose a third member to serve for each calendar year.

(d) Any funds received by a committee's political party which are disbursed by the committee to candidates shall be disbursed only to candidates for state office in connection with a statewide general election.

SEC. 82. Section 18802.5 of the Revenue and Taxation Code is

amended to read:

18802.5. (a) Every employer who during any calendar year provides group-term life insurance on the life of an employee during part or all of such calendar year under a policy (or policies) carried directly or indirectly by such employer shall make a return according to the forms or regulations prescribed by the Franchise Tax Board, setting forth the cost of such insurance and the name and address of the employee on whose life such insurance is provided, but only to the extent that the cost of such insurance is includable in the employee's gross income under Section 79(a) of the Internal Revenue Code. For purposes of this section, the extent to which the cost of group-term life insurance is includable in the employee's gross income under Section 79(a) of the Internal Revenue Code shall be determined as if the employer were the only employer paying such employee remuneration in the form of such insurance.

(b) Every employer making a return under subsection (a) shall furnish to each employee whose name is set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

SEC. 83. Section 18802.7 of the Revenue and Taxation Code is amended to read:

18802.7. (a) Every corporation—

(1) Which in any calendar year transfers a share of stock to any person pursuant to that person's exercise of a qualified stock option, an incentive stock option, or a restricted stock option, or

(2) Which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

(A) Acquired by the transferor pursuant to his or her exercise of an option described in Section 423(c) of the Internal Revenue Code (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

(B) Acquired by the transferor pursuant to his or her exercise of a restricted stock option described in Section 424(c)(1) of the Internal Revenue Code (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall, for that calendar year, make a return at that time and in that manner, and setting forth that information, as the Franchise Tax Board may by regulations prescribe. For purposes of the preceding sentence, any option which a corporation treats as a qualified stock option, an incentive stock option, a restricted stock option, or an option granted under an employee stock purchase plan, shall be deemed to be such an option. A return is required by reason of a transfer described in paragraph (2) of a share only with respect to the first transfer of that share by the person who exercised the option.

(b) Every corporation making a return under subdivision (a)

shall furnish to each person whose name is set forth in the return a written statement setting forth that information which the Franchise Tax Board may by regulations prescribe. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

(c) Any corporation which transfers any share of stock pursuant to the exercise of an option described in subsection (a)(2) shall identify that stock in a manner adequate to carry out the purposes of this section.

(d) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 84. Section 18802.9 of the Revenue and Taxation Code is repealed.

SEC. 85. Section 19053.7 of the Revenue and Taxation Code is amended to read:

19053.7. Insofar as the claim for credit or refund relates to an overpayment on account of the deductibility, under Section 166 of the Internal Revenue Code, of a debt as one which became worthless, or a loss from worthlessness of a security under Section 165(g) or 166 of the Internal Revenue Code, or an erroneous inclusion of an amount attributable to the recovery of a bad debt, prior tax or delinquency amount, under Sections 111(a) and 111(b) of the Internal Revenue Code due to an adjustment of a bad debt deduction under Section 166 of the Internal Revenue Code, or a loss deduction from worthlessness of a security under Section 165(g) of the Internal Revenue Code, in lieu of the period of limitations prescribed in Section 19053, the period shall be seven years from the date prescribed by law for filing the return for the year with respect to which the claim is made.

SEC. 86. Section 19267 of the Revenue and Taxation Code is amended to read:

19267. (a) The trustee of a trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 17631 to which contributions have been paid under a plan on behalf of any owner-employee (as defined in Section 401(c)(3) of the Internal Revenue Code), and each insurance company or other person which is the issuer of a contract purchased by such a trust, or purchased under a plan described in Section 403(a) of the Internal Revenue Code, contributions for which have been paid on behalf of any owner-employee, shall file such returns (in such form and at such times), keep such records, make such identification of contracts and funds (and accounts within such funds), and supply such information, as the Franchise Tax Board shall by forms or regulations prescribe.

(b) Every individual on whose behalf contributions have been paid as an owner-employee (as defined in Section 401(c)(3) of the Internal Revenue Code)—

(1) To a trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 17631, or

(2) To an insurance company or other person under a plan described in Section 403(a) of the Internal Revenue Code,

shall furnish the trustee, insurance company, or other person, as the case may be, such information at such times and in such form and manner as the Franchise Tax Board shall prescribe by forms or regulations.

(c) Every individual in whose name a bond described in Section 405(b) of the Internal Revenue Code is purchased by his employer under a qualified bond purchase plan described in Section 405(a) of the Internal Revenue Code, or by a trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 17631, shall furnish—

(1) To his employer or to such trust, and

(2) To the Franchise Tax Board (or to such person as the Franchise Tax Board may by regulations prescribe),

such information as the Franchise Tax Board shall by forms or regulations prescribe.

SEC. 87. Section 19270 is added to the Revenue and Taxation Code, to read:

19270. (a) On or before the 10th of January each year, the Franchise Tax Board shall submit to the Legislature a report on all changes to the Internal Revenue Code enacted into law in the prior year. To the extent possible, the report shall contain an estimate of the revenue effect of conforming California law to each of those changes.

The report required by this section shall be made available to the public.

It is the intent of the Legislature that the policy committee of each house of the Legislature hold at least one public hearing on the report required by this section.

(b) For any introduced bill which proposes changes in any of the dates in Section 17024.5, the Franchise Tax Board shall prepare a complete analysis of the bill which describes all changes to state law which will automatically occur by reference to federal law as of the changed date. The Franchise Tax Board shall immediately update and supplement that analysis upon any amendment to the bill. That analysis shall be made available to the public and shall be submitted to the Legislature for publication in the daily journal of each house of the Legislature. The digest of the Legislative Counsel shall indicate that an analysis of the bill shall be prepared by the Franchise Tax Board and printed in the daily journal of each house of the Legislature.

SEC. 88. Section 20503 of the Revenue and Taxation Code is amended to read:

20503. (a) "Income" means adjusted gross income as defined in Section 17072 plus the following cash items:

(1) Public assistance and relief;

(2) Gross amount of pensions and annuities;
(3) Social security benefits (except Medi-Care);
(4) Railroad retirement benefits;
(5) Unemployment insurance payments;
(6) Veteran's benefits;
(7) Interest received from any source, whether or not exempt from income tax;
(8) Gifts and inheritances in excess of three hundred dollars ($300), other than transfers between members of the household. Gifts and inheritances includes noncash items;
(9) Amounts contributed on behalf of the contributor to a tax-sheltered retirement plan or deferred compensation plan;
(10) Temporary worker's compensation payments;
(11) Sick leave payments;
(12) Nontaxable military compensation as defined in Section 17138 or 17139, or Section 112 of the Internal Revenue Code;
(13) Nontaxable scholarship and fellowship grants as defined in Section 117 of the Internal Revenue Code;
(14) Nontaxable gain from the sale of a residence as defined in Section 121 of the Internal Revenue Code;
(15) Life insurance proceeds to the extent that such proceeds exceed the expenses incurred for the last illness and funeral of the deceased spouse of the claimant. "Expenses incurred for the last illness" includes unreimbursed expenses paid or incurred during the income calendar year and such expenses paid or incurred thereafter up until the date the claim is filed. For purposes of this paragraph, funeral expenses shall not exceed five thousand dollars ($5,000); and
(16) If a tax on preference income is required to be paid pursuant to Chapter 2.1 (commencing with Section 17062) of Part 10 of this division, the amount of tax preference income (whether or not cash) in excess of net business loss which resulted in the preference tax liability.

(b) For purposes of this chapter, total income shall be determined for the calendar year (or approved fiscal year ending within such calendar year) which ends within the fiscal year for which assistance is claimed.

(c) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625) and Chapter 3.5 (commencing with Section 20640) of this part, total income shall be determined for the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed; provided, that for claims filed after January 1, 1978, for the 1977–78 fiscal year, total income may, at the election of the claimant, be determined for the 1977 calendar year. Notwithstanding any other provision of law, for purposes of claimants electing to determine household income for the 1977 calendar year pursuant to this subdivision, the household income shall not exceed twenty thousand dollars ($20,000).

SEC. 89. Section 20508 of the Revenue and Taxation Code is

amended to read:

20508. "Residential dwelling" means a dwelling occupied by the claimant as the principal place of residence. and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and his spouse, or by the claimant and some other individual, and located in this state. It shall also include a residential unit in a cooperative housing corporation (as defined in Section 216(b) of the Internal Revenue Code) occupied by the owner of shares or a membership interest in such corporation as his or her principal residence, mobilehomes which are assessed as realty for local property tax purposes and the land on which situated, houseboats, and other similar living accommodations, as well as a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It shall also include premises occupied by reason of the claimant's ownership of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, when such association requires the claimant to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a claimant wherein he is required by law to pay a property tax by reason of his ownership (including a possessory interest) in the dwelling, the land, or both. It shall also include a dwelling unit which is a mobilehome owned by a claimant, subject to property taxation pursuant to Part 13 (commencing with Section 5800), and located on land which is owned or rented by such claimant. (Owned includes the interest of a vendee in possession under a land sale contract but not the interest of the vendor, the interest of the holder of a life estate interest, but not the interest of a remainderman, and of one or more joint tenants or tenants in common. Except in the case of an unrecorded land sale contract, ownership must be evidenced by a duly recorded document.)

SEC. 90. Section 20627 of the Revenue and Taxation Code is amended to read:

20627. A tenant-stockholder claimant (hereinafter referred to as "claimant") is an individual who, on the last day of the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed is: (a) a tenant-stockholder in a cooperative housing corporation (as defined in Section 216(b) of the Internal Revenue Code) and (b) occupies as a principal place of residence a residential unit in the cooperative housing corporation (notwithstanding Section 216(b) of the Internal Revenue Code). For the purposes of this chapter, a claimant must be 62 years of age or older on or before December 31 of the fiscal year for which postponement is claimed.

SEC. 90.5. Section 20629 of the Revenue and Taxation Code is amended to read:

20629. Property taxes means the amount representing the claimant's proportionate share of real estate taxes for the fiscal year for which postponement is claimed, determined in accord with the

method prescribed in Section 216(b) of the Internal Revenue Code.

SEC. 91. Section 23051.5 is added to the Revenue and Taxation Code, to read:

23051.5. Unless otherwise specifically provided, the term "Internal Revenue Code" or "Internal Revenue Code of 1954," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto, in effect on the specified date for the applicable taxable year as defined in subdivision (a) of Section 17024.5.

SEC. 92. Section 23701q of the Revenue and Taxation Code is amended to read:

23701q. An organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of Section 120 of the Internal Revenue Code. An organization or trust which receives contributions because of Section 120(c) (5) (C) of the Internal Revenue Code shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

SEC. 93. Section 23704.5 of the Revenue and Taxation Code is amended to read:

23704.5. (a) (1) In the case of an organization to which this section applies, exemption from taxation under Section 23701 shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting to influence legislation, but only if such organization normally—

(A) Makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

(B) Makes grassroots expenditures in excess of the grassroots ceiling amount for such organization for each taxable year.

(2) For purposes of this section—

(A) The term "lobbying expenditures" means expenditures for the purpose of influencing legislation (as defined in Section 23740(d)).

(B) The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under Section 23740.

(C) The term "grassroots expenditures" means expenditures for the purpose of influencing legislation (as defined in Section 23740(d) without regard to paragraph (1) (B) thereof).

(D) The grassroots ceiling amount for any organization for any taxable year is 150 percent of the grassroots nontaxable amount for such organization for such taxable year, determined under Section 23740.

(3) This section shall apply to any organization which has elected (in such manner and at such time as the Franchise Tax Board may

prescribe) to have the provisions of this section apply to such organization and which, for the taxable year which includes the date the election is made, is described in Section 23701d and—

(A) Is described in paragraph (4), and

(B) Is not a disqualified organization under paragraph (5).

(4) An organization is described in this paragraph if it is described in—

(A) Section 170(b)(1)(A)(ii) of the Internal Revenue Code (relating to educational institutions),

(B) Section 170(b)(1)(A)(iii) of the Internal Revenue Code (relating to hospitals and medical research organizations),

(C) Section 170(b)(1)(A)(iv) of the Internal Revenue Code (relating to organizations supporting government schools),

(D) Section 170(b)(1)(A)(vi) of the Internal Revenue Code (relating to organizations publicly supported by charitable contributions),

(E) Section 509(a)(2) of the Internal Revenue Code of 1954 (relating to organizations publicly supported by admissions, sales, etc.), or

(F) Section 509(a)(3) of the Internal Revenue Code of 1954 (relating to organizations supporting certain types of public charities) except that for purposes of this subparagraph, Section 509(a)(3) of the Internal Revenue Code of 1954 shall be applied without regard to the last sentence of Section 509(a) of the Internal Revenue Code of 1954.

(5) For purposes of paragraph (3) an organization is a disqualified organization if it is—

(A) Described in Section 170(b)(1)(A)(i) of the Internal Revenue Code (relating to churches),

(B) An integrated auxiliary of a church or of a convention or association of churches, or

(C) A member of an affiliated group of organizations (within the meaning of Section 23740(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).

(6) An election by an organization under this section shall be effective for all taxable years of such organizations which—

(A) End after the date the election is made, and

(B) Begin before the date the election is revoked by such organization (under regulations prescribed by the Franchise Tax Board).

(7) With respect to any organization for a taxable year for which—

(A) Such organization is a disqualified organization (within the meaning of paragraph (5)), or

(B) An election under this section is not in effect for such organization,

nothing in this section or in Section 23740 shall be construed to affect the interpretation of the phrase, "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, under Section 23701d."

(8) For rule regarding affiliated organizations see Section 23740(f).

SEC. 94. Section 23707 of the Revenue and Taxation Code is amended to read:

23707. (a) Except as provided in subdivision (b), the status of any organization as a private foundation shall be terminated only if—

(1) Such organization notifies the Franchise Tax Board (at such time and in such manner as the Franchise Tax Board may by regulations prescribe) of its intent to accomplish such termination, or

(2) Such organization has been terminated by the Attorney General of this state or by action taken pursuant to Section 507 of the Internal Revenue Code.

(b) (1) The status as a private foundation of any organization shall be terminated if—

(A) Such organization distributes all of its net assets to one or more organizations described below (other than clauses (vii), (viii), (ix) or (x)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution and exempt from tax under Section 23701d of the Revenue and Taxation Code or Section 501(c)(3) of the Internal Revenue Code during the last 60 months, or—

(i) A church or a convention or association of churches,

(ii) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

(iii) An organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital, or if the organization is a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made.

(iv) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 23701d) from the United States or any state or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a state or political subdivision thereof, or which is owned or operated by a state or political subdivision thereof or by an agency or instrumentality of

one or more states or political subdivisions,

(v) A governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code,

(vi) An organization referred to in Section 170(c)(2) of the Internal Revenue Code which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 23701d) from a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code or from direct or indirect contributions from the general public,

(vii) A private operating foundation (as defined in Section 4942(j)(3) of the Internal Revenue Code),

(viii) Any other private foundation (as defined in Section 509(a) of the Internal Revenue Code) which, not later than the 15th day of the third month after the close of the foundation's taxable year in which contributions are received, makes qualifying distributions (as defined in Section 4942(g) of the Internal Revenue Code, as amended by P.L. 94-455, without regard to paragraph (3) thereof), which are treated, after the application of Section 4942(g)(3) of the Internal Revenue Code as distributions out of corpus (in accordance with Section 4942(h) of the Internal Revenue Code) in an amount equal to 100 percent of such contributions, and with respect to which the taxpayer maintains adequate records or other sufficient evidence from the foundation showing that the foundation made such qualifying distributions,

(ix) A private foundation all of the contributions to which are pooled in a common fund and which would be described in paragraph (3) of Section 509(a) of the Internal Revenue Code but for the right of any substantial contributor (hereafter in this clause called "donor") or his spouse to designate annually the recipients, from among organizations described in paragraph (1) of Section 509(a) of the Internal Revenue Code, of the income attributable to the donor's contribution to the fund and to direct (by deed or by will) the payment, to an organization described in such paragraph (1), of the corpus in the common fund shall apply only if all the income of the common fund is required to be (and is) distributed to one or more organizations described in such paragraph (1) not later than the 15th day of the third month after the close of the taxable year in which the income is realized by the fund and only if all of the corpus attributable to any donor's contribution to the fund is required to be (and is) distributed to one or more of such organizations not later than one year after his death or after the death of his surviving spouse if she has the right to designate the recipients of such corpus, and

(x) An organization described in paragraph (2) or (3) of Section 509(a) of the Internal Revenue Code.

(B) Such organization meets the requirements of Section 507(b)(1)(B) or paragraph (1), (2), or (3) of Section 509(a) of the

Internal Revenue Code, whichever applies, and furnishes copies of its federal notice of termination of its private foundation status to the Franchise Tax Board.

(2) For purposes of this part, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation shall not be treated as a newly created organization.

SEC. 95. Section 23708 of the Revenue and Taxation Code is amended to read:

23708. (a) For the purposes of this part, unless otherwise indicated in context, the term "an organization exempt from tax" shall mean an organization which has satisfied the provisions of Section 23701.

(b) Except as provided in subdivision (c), any organization (including an organization in existence on December 31, 1970) which is described in Section 23701d and which does not notify the Franchise Tax Board at such time and such manner as the Franchise Tax Board may prescribe, that it is not a private foundation shall be presumed to be a private foundation. The time prescribed for giving notice under this subdivision shall not expire before the 90th day after the day on which the regulations first prescribed under this subdivision become final.

(c) Subdivision (b) shall not apply to—

(1) Churches, their integrated auxiliaries, and conventions or associations of churches, or

(2) Any organization which is not a private foundation (as defined in Section 23709).

(3) The Franchise Tax Board may by regulations exempt (to the extent and subject to such conditions as may be prescribed in such regulations) from the provisions of subdivision (b)—

(A) Educational organizations which normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on; and

(B) Any other class of organizations with respect to which the Franchise Tax Board determines that full compliance with the provisions of subdivision (b) is not necessary to the efficient administration of the provisions of this title relating to private foundations.

(d) (1) No gift or bequest made to an organization upon which the tax provided by Section 507(c) of the Internal Revenue Code has been imposed shall be allowed as a deduction under Section 24357, if such gift or bequest is made—

(A) By any person after notification of termination is made under Section 507(a) of the Internal Revenue Code, or

(B) By a substantial contributor (as defined in Section 507(d) (2) of the Internal Revenue Code) in his taxable year which includes the first day on which action is taken by such organization which

culminates in the imposition of tax under Section 507(c) of the Internal Revenue Code and any subsequent taxable year.

(2) No gift or bequest made to an organization shall be allowed as a deduction under Section 24357, if such gift or bequest is made—

(A) To a private foundation or trust described in Section 4947 of the Internal Revenue Code in a taxable year for which it fails to meet the requirements of subdivision (e) of this section (determined without regard to subparagraphs (B) and (C) of paragraph (2) of subdivision (e) of this section), or

(B) To any organization that has not established its exemption under Section 23701d or Section 501(c)(3) of the Internal Revenue Code for the period concerned.

(3) Paragraph (1) shall not apply if the entire amount of the unpaid portion of the tax imposed under Section 507(c) of the Internal Revenue Code is abated.

(e) (1) A private foundation shall not be exempt from taxation under Section 23701d unless its governing instrument includes provisions the effects of which are—

(A) To require its income for each taxable year to be distributed at such time and in such manner as not to subject the foundation to tax under Section 4942 of the Internal Revenue Code, as amended by P.L. 94-455, and

(B) To prohibit the foundation from engaging in any act of self-dealing (as defined in Section 4941 of the Internal Revenue Code) from retaining any excess business holdings (as defined in Section 4943 of the Internal Revenue Code), from making any investments in such manner as to subject the foundation to tax under Section 4944 of the Internal Revenue Code.

(2) In the case of any organization organized before January 1, 1970, paragraph (1) shall not apply—

(A) To any taxable year beginning before January 1, 1972,

(B) To any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of paragraph (1), and

(C) To any period after the termination of any judicial proceeding described in subparagraph (B) during which its governing instrument or any other instrument does not permit it to meet the requirements of paragraph (1).

(3) This subdivision shall not apply to require the inclusion in governing instruments of any provisions inconsistent with this subdivision.

(f) Notwithstanding any of the requirements of this section, if they are determined to be met under federal law they are also met for state purposes.

SEC. 96. Section 23709 of the Revenue and Taxation Code is amended to read:

23709. (a) For the purposes of this part the term "private foundation" means a domestic or foreign organization defined in the Internal Revenue Code as a private foundation.

(b) For the purposes of this part, if an organization is a private foundation (within the meaning of subdivision (a)) on December 31, 1970, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after December 31, 1970, or after such subsequent date, unless its status as such is terminated.

(c) For purposes of this part, an organization the status of which as a private foundation is terminated shall be treated as an organization created on the day after the date of such termination, except in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee shall not be treated as a newly created organization.

(d) For purposes of this part, the term "support" includes (but is not limited to)—

(1) Gifts, grants, contributions, or membership fees,

(2) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of Section 23734),

(3) Net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,

(4) Gross investment income (as defined in subdivision (e)),

(5) Tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

(6) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any federal, state, or local tax or any similar benefit.

(e) For purposes of this section, the term "gross investment income" means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by Section 23731.

SEC. 97. Section 23732 of the Revenue and Taxation Code is amended to read:

23732. (a) (1) Except as otherwise provided in this subdivision, the term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (as defined in Section 23734) regularly carried on by it, less the deductions allowed by this article which are directly connected with the carrying on of such trade or business, both computed with

the modifications provided in subdivision (b).

(2) (A) In the case of an organization described in Section 23701g or 23701i, the term "unrelated business taxable income" means the gross income (excluding any exempt function income), less the deductions allowed by this article which are directly connected with the production of the gross income (excluding function income), both computed with the modifications provided in paragraphs (9), (10), and (11) of subdivision (b).

(B) For purposes of subparagraph (A), the term "exempt function income" means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid. Such term also means all income (other than an amount equal to the gross income derived from any unrelated trade or business regularly carried on by such organization computed as if the organization were subject to paragraph (1)), which is set aside—

(i) For a purpose specified in Section 170(c)(4) of the Internal Revenue Code, or

(ii) In the case of an organization described in Section 23701i, to provide for the payment of life, sick, accident, or other benefits, including reasonable costs of administration directly connected with a purpose described in clause (i) or (ii).

If during the taxable year, an amount which is attributable to income so set aside is used for a purpose other than that described in clause (i) or (ii), such amount shall be included, under subparagraph (A), in unrelated business taxable income for the taxable year.

(C) If property used directly in the performance of the exempt function of an organization described in Section 23701g or 23701i is sold by such organization, and within a period beginning one year before the date of such sale, and ending three years after such date, other property is purchased and used by such organization directly in the performance of its exempt function, gain (if any) from such sale shall be recognized only to the extent that such organization's sales price of the old property exceeds the organization's cost of purchasing the other property. For purposes of this subparagraph, the destruction in whole or in part, theft, seizure, requisition, or condemnation of property, shall be treated as the sale of such property and rules similar to the rules provided by subsections (b), (c), (e), and (j) of Section 1034 of the Internal Revenue Code shall apply.

(3) If a corporation exempt under Section 23701h—

(A) Pays any amount of its net income for a taxable year to an organization (parent) exempt from taxation under Section 23701 or 17631 (or in case of an organization located outside the state the exemption may be under Section 501(a) of the Internal Revenue Code) or which would pay such amount but for the fact that the expenses of collecting its income exceeded its income, and

(B) Such corporation and such organization file a consolidated federal return for the year and furnish a copy of the consolidated return with its return, such corporation shall be treated, for the purposes of the tax imposed by Section 23731, as being organized and operated for the same purposes as such organization in addition to the purposes described in Section 23701h.

(b) The modifications referred to in subdivision (a) are the following:

(1) There shall be excluded all dividends, interest, and annuities, and all deductions directly connected with such income.

(2) There shall be excluded all royalties (including overriding royalties) whether measured by production or by gross or taxable income from the property, and all deductions directly connected with such income.

(3) In the case of rents—

(A) Except as provided in subparagraph (B), there shall be excluded—

(i) All rents from real property, and

(ii) All rents from personal property leased with such real property, if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

(B) Subparagraph (A) shall not apply—

(i) If more than 50 percent of the total rent received or accrued under the lease is attributable to personal property described in subparagraph (A) (ii), or

(ii) If the determination of the amount of such rent depends in whole or in part on the income or profits derived by any person from the property leased (other than an amount based on a fixed percentage or percentages of receipts or sales).

(C) There shall be excluded all deductions directly connected with rents excluded under subparagraph (A).

(4) Notwithstanding paragraph (1), (2), (3), or (5), in case of debt-financed property (as defined in Section 23735) there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under paragrah (1) of subdivision (a) of Section 23735, and there shall be allowed, as a deduction, the amount ascertained under paragraph (2) of subdivision (a) of Section 23735.

(5) There shall be excluded all gains or losses from the sale, exchange or other disposition of property other than—

(A) Stock in trade or other property of a kind which would properly be includable in inventory if on hand at the close of the taxable year, or

(B) Property held primarily for sale to customers in the ordinary course of the trade or business.

This paragraph shall not apply with respect to the cutting of timber which is considered, on the application of Section 17711, as a sale or

exchange of such timber.

(6) There shall be excluded all income derived from research for (A) the United States, or any of its agencies or instrumentalities, or (B) any state or political subdivision thereof; and there shall be excluded all deductions directly connected with such income.

(7) In the case of a college, university, or hospital, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(8) In the case of an organization operated primarily for purposes of carrying on fundamental research the results of which are freely available to the general public, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(9) In the case of any organization (other than a trust) subject to tax under Section 23731, the deduction allowed by Section 24357 (relating to charitable, etc., contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), but shall not exceed 5 percent of the unrelated business taxable income computed without the benefit of this paragraph.

(10) In the case of any trust subject to taxation under Section 23731 or subdivision (a) of Section 17651, the deduction allowed by Section 170 of the Internal Revenue Code (relating to charitable, etc., contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business) and for such purpose a distribution made by the trust to a beneficiary described in Section 170 of the Internal Revenue Code shall be considered a gift or contribution. The deduction allowed by this paragraph shall be allowed with the limitations prescribed in Section 17241 determined with reference to the unrelated business taxable income computed without the benefit of this paragraph (in lieu of with reference to adjusted gross income).

(11) There shall also be allowed a specific deduction of one thousand dollars ($1,000). In the case of a diocese, province of a religious order, or a convention or association of churches, there shall be allowed, with respect to each parish, individual church, district, or other local unit, a specific deduction equal to the lower of—

(A) One thousand dollars ($1,000), or

(B) The gross income derived from any unrelated trade or business regularly carried on by such local unit.

(12) In the case of an organization which is described in Section 23701a, there shall be excluded all income used to establish, maintain, or operate a retirement home, hospital, or other similar facility for the exclusive use and benefit of the aged and infirm members of such an organization, which is derived from agricultural pursuits conducted on ground contiguous to the retirement home, hospital, or similar facility and further provided that such income does not provide more than 75 percent of the cost of maintaining and operating the retirement home, hospital, or similar facility; and there shall be excluded all deductions directly connected with such

income.

(13) Notwithstanding paragraph (1), (2), or (3), amounts of interest, annuities, royalties, and rents derived from any organization (in this paragraph called the controlled organization) of which the organization deriving such amounts (in this paragraph called the controlling organization) has control (as defined in Section 24564) shall be included as an item of gross income (whether or not the activity from which such amounts are derived represents a trade or business or is regularly carried on) in an amount which bears the same ratio as—

(A) (i) In the case of a controlled organization which is not exempt from taxation under Section 23701 or 17631, the excess of the amount of taxable income of the controlled organization over the amount of such organization's taxable income which if derived directly by the controlling organization would not be unrelated business taxable income, or

(ii) In the case of a controlled organization which is exempt from taxation under Section 23701 or 17631, the amount of unrelated business taxable income of the controlled organization, bears to

(B) The taxable income of the controlled organization (determined in the case of a controlled organization to which subparagraph (A) (ii) applies as if it were not an organization exempt from taxation under Section 23701 or 17631), but not less than the amount determined in clause (i) or (ii), as the case may be, of subparagraph (A),

both amounts computed without regard to amounts paid directly or indirectly to the controlling organization. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

SEC. 98. Section 23734c of the Revenue and Taxation Code is amended to read:

23734c. In the case of a hospital described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code, the term "unrelated trade or business" does not include the furnishing of one or more of the services described in Section 23704(a)(1) to one or more hospitals described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code if—

(a) Such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients;

(b) Such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption; and

(c) Such services are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight line depreciation and a reasonable amount for return on capital goods used to provide such services.

SEC. 99. Section 23735 of the Revenue and Taxation Code is amended to read:

23735. (a) In computing under Section 23732 the unrelated business taxable income for any taxable year—

(1) There shall be included with respect to each debt-financed property as an item of gross income derived from an unrelated trade or business an amount which is the same percentage (but not in excess of 100 percent) of the total gross income derived during the taxable year from or on account of such property as (A) the average acquisition indebtedness (as defined in subdivision (C) (7) for the taxable year with respect to the property is of (B) the average amount (determined under regulations prescribed by the Franchise Tax Board) of the adjusted basis of such property during the period it is held by the organization during such taxable year.

(2) There shall be allowed with respect to each debt-financed property, as a deduction to be taken into account in computing unrelated debt-financed income, an amount determined by applying (except as provided in the last sentence of this paragraph) the percentage derived under paragraph (1) to the sum determined under paragraph (3). The percentage derived under this paragraph shall not be applied with respect to the deduction of any capital loss resulting from the carryover of net capital losses under Section 18152.

(3) The sum referred to in paragraph (2) is the sum of the deductions under this part which are directly connected with the debt-financed property or the income therefrom, except that if the debt-financed property is of a character which is subject to the allowance for depreciation provided in Section 24349, the allowance shall be computed only by use of the straight line method.

(b) For the purpose of this section—

(1) The term "debt-financed property" means any property which is held to produce income and with respect to which there is an acquisition indebtedness (as defined in subdivision (c)) at any time during the taxable year (or, if the property was disposed of during the taxable year, with respect to which there was an acquisition indebtedness at any time during the 12-month period ending with the date of such disposition), except that such term does not include—

(A) (i) Any property substantially all the use of which is substantially related (aside from the need of the organization for income or funds) to the exercise or performance by such organization of its charitable, educational, or other purpose of function constituting the basis for its exemption under Section 17631 or 23701; or

(ii) Any property to which clause (i) does not apply, to the extent that its use is so substantially related;

(B) Except in the case of income excluded under paragraph (5) of subdivision (b) of Section 23732, any property to the extent that the income from such property is taken into account in computing the gross income of any unrelated trade or business;

(C) Any property to the extent that the income from such property is excluded by reason of the provisions of paragraph (6),

(7), or (8) of subdivision (b) of Section 23732 in computing the gross income of any unrelated trade or business; or

(D) Any property to the extent that it is used in any trade or business described in subdivision (a), (b), or (c) of Section 23734. For purposes of subparagraph (A), substantially all the use of a property shall be considered to be substantially related to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 17631 or 23701 if such property is real property subject to a lease to a medical clinic entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 17631 or 23701.

(2) For purposes of applying subparagraphs (A), (C), and (D) of paragraph (1), the use of any property by an exempt organization which is related to an organization shall be treated as use by such organization.

(3) (A) If an organization acquires real property for the principal purpose of using the land (commencing within 10 years of the time of acquisition) in the manner described in subparagraph (A) of paragraph (1) and at the time of acquisition the property is in the neighborhood of other property owned by the organization which is used in such manner, the real property acquired for such future use shall not be treated as debt-financed property so long as the organization does not abandon its intent to so use the land within the 10-year period. The preceding sentence shall not apply for any period after the expiration of the 10-year period, and shall apply after the first five years of the 10-year period only if the organization establishes to the satisfaction of the Franchise Tax Board that it is reasonably certain that the land will be used in the described manner before the expiration of the 10-year period.

(B) If the first sentence of subparagraph (A) is inapplicable only because—

(i) The acquired land is not in the neighborhood referred to in subparagraph (A), or

(ii) The organization (for the period after the first five years of the 10-year period) is unable to establish to the satisfaction of the Franchise Tax Board that it is reasonably certain that the land will be used in the manner described in subparagraph (A) of paragraph (1) before the expiration of the 10-year period, but the land is converted to such use by the organization within the 10-year period,

the real property (subject to the provisions of subparagraph (D)) shall not be treated as debt-financed property for any period before such conversion. For purposes of this subparagraph, land shall not be treated as used in the manner described in subparagraph (A) of paragraph (1) by reason of the use made of any structure which was

on the land when acquired by the organization.

(C) Subparagraphs (A) and (B)—

(i) Shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only if (and so long as) the intended future use of the land in the manner described in subparagraph (A) of paragraph (1) requires that the structure be demolished or removed in order to use the land in such manner;

(ii) Shall not apply to structures erected on the land after the acquisition of the land; and

(iii) Shall not apply to property subject to a lease which is an "Article 2" lease as (defined in Section 23735a).

(D) If an organization for any taxable year has not used land in the manner to satisfy the actual use condition of subparagraph (B) before the time prescribed by law (including extensions thereof) for filing the return for such taxable year, the tax for such year shall be computed without regard to the application of subparagraph (B), but if and when such use condition is satisfied, the provisions of subparagraph (B) shall then be applied to such taxable year. If the actual use condition of subparagraph (B) is satisfied for any taxable year after such time for filing the return, and if credit or refund of any overpayment for the taxable year resulting from the satisfaction of such use condition is prevented at the close of the taxable year in which the use condition is satisfied, by the operation of any law or rule of law (other than Section 25781, relating to closing agreements and compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed before the expiration of one year after the close of the taxable year in which the use condition is satisfied. Interest on any overpayment for a taxable year resulting from the application of subparagraph (b) after the actual use condition is satisfied shall be allowed and paid at the rate of 4 percent per annum in lieu of 6 percent per annum.

(E) In applying this paragraph to a church or convention or association of churches, in lieu of the 10-year period referred to in subparagraphs (A) and (B) a 15-year period shall be applied, and subparagraph (A) and clause (ii) of subparagraph (B) shall apply whether or not the acquired land meets the neighborhood test.

(c) For the purpose of this section—

(1) The term "acquisition indebtedness" means with respect to any debt-financed property, the unpaid amount of—

(A) The indebtedness incurred by the organization in acquiring or improving such property;

(B) The indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) The indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at

the time of such acquisition or improvement;
except that in case of any taxable year beginning before January 1, 1972, any indebtedness incurred before June 28, 1966 shall not be taken into account unless such indebtedness constitutes Article 2 lease indebtedness (as defined in Section 23735a).

(2) Property acquired subject to mortgage shall be subject to the following rules, exceptions, and limitations.

(A) Where property (no matter how acquired) is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered as an indebtedness of the organization incurred in acquiring such property even though the organization did not assume or agree to pay such indebtedness.

(B) Where property subject to a mortgage is acquired by an organization by bequest or devise, the indebtedness secured by the mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of the acquisition. If an organization acquires property by gift subject to a mortgage which was placed on the property more than five years before the gift, which property was held by the donor more than five years before the gift, the indebtedness secured in such mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of such gift. This subparagraph shall not apply if the organization, in order to acquire the equity in the property by bequest, devise, or gift, assumes and agrees to pay the indebtedness secured by the mortgage, or if the organization makes any payment for the equity in the property owned by the decedent or the donor.

(C) Where state law provides that—

(i) A lien for taxes, or

(ii) A lien for assessments, made by a state or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with state law.

(3) An extension, renewal, or refinancing of an obligation evidencing a preexisting indebtedness shall not be treated, for the purpose of this section, as the creation of a new indebtedness.

(4) The term "acquisition indebtedness" does not include indebtedness the incurrence of which is inherent in the performance or exercise of the purpose or function constituting the basis of the organization's exemption.

(5) The term "acquisition indebtedness" does not include an obligation to pay an annuity which—

(A) Is the sole consideration (other than a mortgage to which subparagraph (B) of paragraph (2) applies) issued in exchange for property if, at the time of the exchange, the value of the annuity is less than 90 percent of the value of the property received in the

exchange,

(B) Is payable over the life of one individual in being at the time the annuity is issued or over the lives of two individuals in being at such time, and

(C) Is payable under a contract which—

(i) Does not guarantee a minimum amount of payments or specify a maximum amount of payments, and

(ii) Does not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

(6) The term "acquisition indebtedness" does not include an obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low- and moderate-income persons.

(7) The term "average acquisition indebtedness" for any taxable year with respect to a debt-financed property means the average amount determined under regulations prescribed by the Franchise Tax Board, of the acquisition indebtedness during the period the property is held by the organization during the taxable year, except that for the purpose of computing the percentage of any gain or loss to be taken into account on a sale or other disposition of debt-financed property, such term means the highest amount of the acquisition indebtedness with respect to such property during the 12-month period ending with the date of the sale or other disposition.

(d) If the property was acquired in a complete or partial liquidation of a corporation in exchange for its stock, the basis of the property, for the purposes of this article, shall be the same as it would be in the hands of the transferor corporation, increased by the amount of gain recognized to the transferor corporation upon such distribution and by the amount of any gain to the organization which was included, on account of such distribution, in its unrelated business taxable income under subdivision (a).

(e) Where debt-financed property is held for purposes described in subparagraph (A), (B), (C), or (D) of paragraph (1) of subdivision (b) as well as for other purposes, proper allocation shall be made with respect to basis, indebtedness, and income and deductions. The allocations and exclusions required by this section shall be made in accordance with regulations prescribed by the Franchise Tax Board to the extent proper to carry out the purposes of this section.

SEC. 100. Section 23736.1 of the Revenue and Taxation Code is amended to read:

23736.1. (a) For the purposes of this article, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of this article—

(1) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually

rendered, to;

(3) Makes any part of its services available on a preferential basis to;

(4) Makes any substantial purchase of securites or any other property, for more than adequate consideration in money or money's worth, from;

(5) Sells any substantial part of its securites or other property, for less than an adequate consideration in money or money's worth, to; or

(6) Engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in Section 267(c)(4) of the Internal Revenue Code) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

(b) For purposes of subsection (a), a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this section referred to as "obligation") acquired by a trust described in Section 23701n shall not be treated as a loan made without the receipt of adequate security if—

(1) Such obligation is acquired—

(A) On the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the trust than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) From an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) Directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) Immediately following acquisition of such obligation—

(A) Not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the trust, and

(B) At least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) Immediately following acquisition of the obligation, not more

than 25 percent of the assets of the trust is invested in obligations of persons described in subsection (a). Subsection (a) shall not apply to a loan made by a trust described in Section 23701n to the employer (or to a renewal of such a loan or, if the loan is repayable upon demand, to a continuation of such a loan) if the loan bears a reasonable rate of interest, and if (in the case of a making or renewal)—

(A) The employer is prohibited (at the time of such making or renewal) by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets;

(B) The making or renewal, as the case may be, is approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and no other such trustee had previously refused to give such written approval; and

(C) Immediately following the making or renewal, as the case may be, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust.

For purposes of paragraph (B) the term "trustee" means, with respect to any trust for which there is more than one trustee who is independent of the employer, a majority of such independent trustees. For purposes of paragraph (3), the determination as to whether any amount loaned by the trust to the employer is loaned without the receipt of adequate security shall be made without regard to subsection (b).

(4) (A) In the case of a trust described in Section 23701n, or in the case of a corporation described in Section 23701h, all of the stock of which was acquired before January 1, 1961, by a trust described in Section 23701n, any indebtedness incurred by such trust or such corporation before January 1, 1961, in connection with real property which is leased before January 1, 1961, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness with respect to such trust or such corporation for purposes of this section.

(B) In the application of subsection (1), if a trust described in Section 23701n forming part of a supplemental unemployment compensation benefit plan lends any money to another trust described in Section 23701n forming part of the same plan, such loan shall not be treated as an indebtedness of the borrowing trust, except to the extent that the loaning trust—

(i) Incurs any indebtedness in order to make such loan,

(ii) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan, or

(iii) Incurred indebtedness after the making of such loan which would not have been incurred but for the making of such loan and

which was reasonably foreseeable at the time of making such loan.

SEC. 101. Section 24307 of the Revenue and Taxation Code is amended to read:

24307. (a) (1) Gross income does not include any amount which (but for this subdivision) would be includable in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if—

(A) The discharge occurs when the taxpayer is insolvent, or

(B) The indebtedness discharged is qualified business indebtedness.

(2) Subparagraph (B) of paragraph (1) shall not apply to a discharge to the extent that the taxpayer is insolvent.

(3) In the case of a discharge to which subparagraph (A) of paragraph (1) applies, the amount excluded under subparagraph (A) of paragraph (1) shall not exceed the amount by which the taxpayer is insolvent.

(b) (1) The amount excluded from gross income under subparagraph (A) of paragraph (1) of subdivision (a) shall, except as provided in paragraph (5), be applied to reduce the basis of the property of the taxpayer.

(2) For provisions for making the reduction see Section 24918.

(3) The reduction shall be one dollar ($1) for each dollar excluded by subdivision (a).

(4) The reduction shall be made after the determination of the tax imposed by this chapter for the income year of the discharge.

(5) (A) The taxpayer may elect to apply any portion of the reduction referred to in paragraph (1) to the reduction under Section 24918 of the basis of the depreciable property of the taxpayer.

(B) The amount to which an election under this subdivision applies shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the income year following the income year in which the discharge occurs.

(C) Paragraph (1) shall not apply to any amount to which an election under this subdivision applies.

(c) (1) In the case of a discharge of qualified business indebtedness, the amount excluded from gross income under subparagraph (B) of paragraph (1) of subdivision (a) shall be applied to reduce the basis of the depreciable property of the taxpayer.

(2) For provisions for making the reduction see Section 24918.

(3) The amount excluded under subparagraph (B) of paragraph (1) of subdivision (a) shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the income year following the income year in which the discharge occurs (determined after any reductions under subdivision (b)).

(d) (1) For purposes of this section, the term "indebtedness of the taxpayer" means any indebtedness—

(A) For which the taxpayer is liable, or

(B) Subject to which the taxpayer holds property.

(2) For purposes of this section, the term "insolvent" means the excess of liabilities over the fair market value of assets. With respect to any discharge, whether or not the taxpayer is insolvent, and the amount by which the taxpayer is insolvent, shall be determined on the basis of the taxpayer's assets and liabilities immediately before the discharge.

(3) Indebtedness of the taxpayer shall be treated as qualified business indebtedness if (and only if)—

(A) The indebtedness was incurred or assumed—

(i) By a corporation, or

(ii) By an individual in connection with property used in his trade or business, and

(B) Such taxpayer makes an election under this paragraph with respect to such indebtedness.

(4) The term "depreciable property" has the same meaning as when used in Section 24918.

(5) In the case of a partnership, subdivisions (a), (b), and (c) shall be applied at the partner level.

(6) (A) An election under paragraph (3) of this subdivision or under paragraph (5) of subdivision (b) shall be made on the taxpayer's return for the income year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Franchise Tax Board.

(B) An election referred to in subparagraph (A), once made, may be revoked only with the consent of the Franchise Tax Board.

(C) An election referred to in subparagraph (A) shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(7) For provision that no reduction is to be made in the basis of exempt property of an individual debtor, see Section 24918(c)(1).

(e) For purposes of this title—

(1) Except as otherwise provided in this section, there shall be no insolvency exception from the general rule that gross income includes income from the discharge of indebtedness.

(2) No income shall be realized from the discharge of indebtedness to the extent that payment of the liability would have given rise to a deduction.

(3) The amount taken into account with respect to any discharge shall be properly adjusted for unamortized premium and unamortized discount with respect to the indebtedness discharged.

(4) (A) For purposes of determining income of the debtor from discharge of indebtedness, to the extent provided in regulations prescribed by the Franchise Tax Board, the acquisition of outstanding indebtedness by a person bearing a relationship to the debtor specified in Section 24428 or Section 707(b) of the Internal Revenue Code from a person who does not bear such a relationship to the debtor shall be treated as the acquisition of such

indebtedness by the debtor. Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence.

(B) For purposes of this paragraph, Section 24428 and Section 707(b) of the Internal Revenue Code shall be applied as if Section 24429(d) provided that the family of an individual consists of the individual's spouse, the individual's children, grandchildren, and parents, and any spouse of the individual's children or grandchildren.

(5) If—

(A) The debt of a purchaser of property to the seller of such property which arose out of the purchase of such property is reduced,

(B) Such reduction does not occur when the purchaser is insolvent, and

(C) But for this paragraph, such reduction would be treated as income to the purchaser from the discharge of indebtedness,

then such reduction shall be treated as a purchase price adjustment.

(6) For purposes of determining income of the debtor from discharge of indebtedness, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the shareholder's adjusted basis in the indebtedness.

(7) (A) If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness—

(i) Such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as Section 1245 of the Internal Revenue Code property (as modified by Section 18170), and

(ii) The aggregate amount allowed to the creditor—

(I) As deductions under subdivision (a) of Section 24348 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

(II) As an ordinary loss on the exchange,

shall be treated as an amount allowed as a deduction for depreciation.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

(B) In the case of a taxpayer to whom the portion of subdivision (a) of Section 24348 (relating to reserve for bad debts) applies, the amount determined under clause (ii) of subparagraph (A) shall be the aggregate charges to the reserve resulting from the worthlessness or partial worthlessness of the indebtedness.

(C) In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under

clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness had been satisfied in full.

(D) For purposes of this paragraph, stock of a corporation in control (within the meaning of Section 24564) of the debtor corporation shall be treated as stock of the debtor corporation.

(E) For purposes of this paragraph, the term "debtor corporation" includes a successor corporation.

(F) Under regulations prescribed by the Franchise Tax Board, rules similar to the rules of subparagraphs (A), (B), (C), (D), and (E) of this paragraph shall apply with respect to the indebtedness of a partnership.

(8) For purposes of determining income of the debtor from discharge of indebtedness, the stock for debt exception shall not apply—

(A) To the issuance of nominal or token shares, or

(B) With respect to an unsecured creditor, where the ratio of the value of the stock received by such unsecured creditor to the amount of his indebtedness canceled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

(9) Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of Section 24413.

SEC. 102. Section 24352.1 of the Revenue and Taxation Code is amended to read:

24352.1. A taxpayer may, on or before the last day prescribed by law (including extensions thereof) for filing its return for its first income year beginning after July 24, 1969, and in such manner as the Franchise Tax Board shall by regulation prescribe, elect to change its method of depreciation in respect to property of the type defined in Section 1250(c) of the Internal Revenue Code from any declining balance or sum of the years-digits method to the straight line method. An election may be made under this section notwithstanding any provision to the contrary in an agreement under Section 24351.

SEC. 103. Section 24354.1 of the Revenue and Taxation Code is amended to read:

24354.1. (a) Except as provided in subdivisions (b) and (c) of this section, in the case of property of the type defined in Section 1250(c) of the Internal Revenue Code, subdivision (b) of Section 24349 shall not apply and the term "reasonable allowance" as used in subdivision (a) of Section 24349 shall include an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight line method,

(2) The declining balance method, using a rate not exceeding 150 percent of the rate which would have been used had the

annual allowance been computed under the method described in paragraph (1), or

(3) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subdivision shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a) of Section 24349 except where allowable solely by reason of paragraph (2), (3), or (4) of subdivision (b) of Section 24349.

(b) (1) Subdivision (a) of this section shall not apply, and subdivision (b) of Section 24349 shall apply in any income year, to a building or structure—

(A) Which is residential rental property located within the United States or any of its possessions, or located within a foreign country if a method of depreciation for such property comparable to the method provided in paragraph (2) or (3) of subdivision (b) of Section 24349 is provided by the laws of such country and

(B) The original use of which commences with the taxpayer. In the case of residential rental property located within a foreign country, the original use of which commences with the taxpayer, if the allowance for depreciation provided under the laws of such country for such property is greater than that provided under subdivision (a) of this section, but less than that provided under subdivision (b) of Section 24349, the allowance for depreciation under subdivision (b) of Section 24349 shall be limited to the amount provided under the laws of such country.

(2) For purposes of paragraph (1), a building or structure shall be considered to be residential rental property for any income year only if 80 percent or more of the gross rental income from such building or structure for such year is rental income from dwelling units (within the meaning of paragraph (3) of subdivision (c) of Section 24354.2. For purposes of the preceding sentence, if any portion of such building or structure is occupied by the taxpayer, the gross rental income from such building or structure shall include the rental value of the portion so occupied.

(3) Any change in the computation of the allowance for depreciation for any income year, permitted or required by reason of the application of paragraph (1), shall not be considered a change in a method of accounting.

(c) Subdivision (a) of this section shall not apply, and subdivision (b) of Section 24349 shall apply, in the case of property—

(1) The construction, reconstruction, or erection of which was begun before January 1, 1971, or

(2) For which a written contract entered into before January 1, 1971, with respect to any part of the construction, reconstruction, or

erection or for the permanent financing thereof, was on January 1, 1971, and at all times thereafter, binding on the taxpayer.

(d) Except as provided in subdivision (e), in the case of property of the type defined in Section 18214 of the Personal Income Tax Law acquired after December 31, 1970, the original use of which does not commence with the taxpayer, the allowance for depreciation under Sections 24349 to 24354.2, inclusive, shall be limited to an amount computed under—

(1) The straight line method, or

(2) Any other method determined by the Franchise Tax Board to result in a reasonable allowance under subdivision (a) of Section 24349, not including—

(A) Any declining balance method,

(B) The sum of the years-digits method, or

(C) Any other method allowable solely by reason of the application of paragraph (4) of subdivision (b) of Section 24349 or paragraph (3) of subdivision (a) of this section.

(e) In the case of property of the type defined in Section 1250(c) of the Internal Revenue Code which is residential rental property (as defined in paragraph (2) of subdivision (b)) acquired after December 31, 1970, having a useful life of 20 years or more, the original use of which does not commence with the taxpayer, the allowance for depreciation under Sections 24349 to 24354.2, inclusive, shall be limited to an amount computed under—

(1) The straight line method,

(2) The declining balance method, using a rate not exceeding 125 percent of the rate which would have been used had the annual allowance been computed under the method described in paragraph (1), or

(3) Any other method determined by the Franchise Tax Board to result in a reasonable allowance under subdivision (a) of Section 24349, not including—

(A) The sum of the years-digits method,

(B) Any declining balance method using a rate in excess of the rate permitted under paragraph (2), or

(C) Any other method allowable solely by reason of the application of paragraph (4) of subdivision (b) of Section 24349 or paragraph (3) of subdivision (a) of this section.

(f) (1) For purposes of subdivisions (b), (d), and (e), if property of the type defined in Section 1250(c) of the Internal Revenue Code which is not property described in subdivision (a) of Section 24349 when its original use commences, becomes property described in subdivision (a) of Section 24349 after December 31, 1970, such property shall not be treated as property the original use of which commences with the taxpayer.

(2) Subdivisions (d) and (e) shall not apply in the case of property of the type defined in Section 1250(c) of the Internal Revenue Code, acquired after December 31, 1970, pursuant to a written contract for the acquisition of such property or for the permanent financing

thereof, which was, on December 31, 1970, and at all times thereafter, binding on the taxpayer.

(g) This section shall not apply to public utility property which means property used predominantly in the trade or business of the furnishing or sale of—

(1) Electrical energy, water, or sewage disposal services,

(2) Gas or steam through a local distribution system,

(3) Telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), or

(4) Transportation of gas or steam by pipeline,

if the rates for such furnishing or sale, as the case may be, have been established or approved by a state or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any state or political subdivision thereof.

SEC. 104. Section 24357.5 of the Revenue and Taxation Code is amended to read:

24357.5. No deduction shall be allowed under Section 17201 for a contribution to or for the use of an organization or trust described in Section 4948(c)(4) of the Internal Revenue Code.

SEC. 105. Section 24382 of the Revenue and Taxation Code is amended to read:

24382. If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder of a cooperative housing corporation described in Section 216(b)(2) of the Internal Revenue Code, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be entitled to a deduction, for a period not to exceed three years from the date of acquisition, for amounts (not otherwise deductible) paid or accrued to a cooperative housing corporation within the income year, but only to the extent that such amounts represent the tenant-stockholder's proportionate share of:

(a) The real estate taxes allowable as a deduction under Section 24345 which are paid or accrued by the corporation on the houses or apartment buildings and on the land on which such houses (or buildings) are situated, or

(b) The interest allowable as a deduction to the cooperative housing corporation which is paid or incurred by the corporation on its indebtedness contracted—

(1) In the acquisition, construction, alteration, rehabilitation, or maintenance of the houses or apartment buildings, or

(2) In the acquisition of the land on which the houses (or apartment buildings) are situated.

This section shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment

without prior approval of such corporation.

SEC. 106. Section 24439 of the Revenue and Taxation Code is amended to read:

24439. (a) No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note, or certificate or other evidence of indebtedness which is convertible into the stock of the issuing corporation, or a corporation in control of, or controlled by, the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not convertible. The preceding sentence shall not apply to the extent that the corporation can demonstrate to the satisfaction of the Franchise Tax Board that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

(b) For purposes of subdivision (a)—

(1) The adjusted issue price is the issue price (as defined in Section 1232(b) of the Internal Revenue Code) increased by any amount of discount deducted before repurchase, or, in the case of bonds or other evidences of indebtedness issued after February 28, 1913, decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

(2) The term "control" has the meaning assigned to such term by Section 24564.

(c) The provisions of this section shall not apply to a convertible bond or other convertible evidence of indebtedness repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such bond or other evidence of indebtedness at a specified call premium, but no inference shall be drawn from the fact that this section does not apply to the repurchase of such convertible bond or other convertible evidence of indebtedness.

SEC. 107. Section 24446 of the Revenue and Taxation Code is amended to read:

24446. Expenses paid or incurred by the taxpayer for goods, services, and facilities shall not be disallowed as a deduction to the extent that the expenses are includable in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under Section 74 of the Internal Revenue Code. The preceding sentence shall not apply to any amount paid or incurred by the taxpayer if that amount is required to be included (or would be so required except that the amount is less than one thousand dollars ($1,000)) in any information return filed by such taxpayer under Section 18802 and is not so included.

SEC. 108. Section 24483.5 of the Revenue and Taxation Code is amended to read:

24483.5. (a) (1) If a corporation distributes property (other than an obligation of such corporation) to a shareholder in a redemption (to which Article 1 (commencing with Section 24451)

applies) of part or all of his stock in such corporation, and

(2) The fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation), then a gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. Sections 24482 and 24483 shall not apply to any distribution to which this section applies.

(b) Subdivision (a) shall not apply to—

(1) A distribution in complete redemption of all of the stock of a shareholder who, at all times within the 12-month period ending on the date of such distribution, owns at least 10 percent in value of the outstanding stock of the distributing corporation, but only if the redemption qualifies under paragraph (3) of subdivision (b) of Section 24455 (determined without the application of clause (ii) of subparagraph (A) of paragraph (2) of subdivision (c) of Section 24455);

(2) A distribution of stock or an obligation of a corporation—

(A) Which is engaged in at least one trade or business,

(B) Which has not received property constituting a substantial part of its assets from the distributing corporation, in a transaction to which Section 24521 applied or as a contribution to capital, within the five-year period ending on the date of the distribution, and

(C) At least 50 percent in value of the outstanding stock of which is owned by the distributing corporation at any time within the nine-year period ending one year before the date of the distribution;

(3) A distribution before December 1, 1974, of stock of a corporation substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in Section 23361) as the distributing corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the one-year period ending on the date of the distribution;

(4) A distribution of stock or securities pursuant to the terms of a final judgment rendered by a court with respect to the distributing corporation in a court proceeding under the Sherman Act (26 Stat. 209; 15 U.S.C. 1–7) or the Clayton Act (38 Stat. 730; 15 U.S.C. 12–27), or both, to which the United States is a party, but only if the distribution of such stock or securities in redemption of the distributing corporation's stock is in furtherance of the purposes of the judgment;

(5) A distribution to the extent that Section 303 of the Internal Revenue Code (relating to distributions in redemption of stock to pay death taxes) applies to such distribution;

(6) A distribution by a corporation to which Section 23701m (relating to and including regulated investment companies) applies, if such distribution is in redemption of the stock upon the demand of the shareholder;

(7) A distribution by a corporation to which Section 1101 of the Internal Revenue Code or Section 24999 (relating to bank holding

companies) applies.

(c) (1) Except as to distributions described in paragraphs (2) and (3), this section and the amendments to paragraph (2) of subdivision (a) of Section 24452, subdivision (b) of Section 24454, and subdivision (c) of Section 24486 at the 1971 First Extraordinary Session of the Legislature shall apply with respect to distributions after December 31, 1970.

(2) A distribution by a corporation of property (held on December 1, 1969, by the distributing corporation or a corporation which was a wholly owned subsidiary of the distributing corporation on such date) in redemption of stock outstanding on November 30, 1969, which is redeemed and canceled before July 31, 1971, if—

(A) Such redemption is pursuant to a resolution adopted before November 1, 1969, by the board of directors authorizing the redemption of a specific amount of stock constituting more than 10 percent of the outstanding stock of the corporation at the time of the adoption of such resolution; and

(B) More than 40 percent of the stock authorized to be redeemed pursuant to such resolution was redeemed before December 30, 1969, and more than one-half of the stock so redeemed was redeemed with property other than money.

(3) A distribution of stock by a corporation organized prior to December 1, 1969, for the principal purpose of providing an equity participation plan for employees of the corporation whose stock is being distributed (hereinafter referred to as the "employer corporation") if—

(A) The stock being distributed was owned by the distributing corporation on November 30, 1969.

(B) The stock being redeemed was acquired before January 1, 1973, pursuant to such equity participation plan by the shareholder presenting such stock for redemption (or by a predecessor of such shareholder),

(C) The employment of the shareholder presenting the stock for redemption (or the predecessor of such shareholder) by the employer corporation commenced before January 1, 1971,

(D) At least 90 percent in value of the assets of the distributing corporation on November 30, 1969, consisted of common stock of the employer corporation, and

(E) At least 50 percent of the outstanding voting stock of the employer corporation is owned by the distributing corporation at any time within the nine-year period ending one year before the date of such distribution.

SEC. 109. Section 24497 of the Revenue and Taxation Code is amended to read:

24497. For purposes of those provisions of this chapter to which the rules contained in this section are expressly made applicable—

(a) (1) An individual shall be considered as owning the stock owned, directly or indirectly, by or for—

(A) His or her spouse (other than a spouse who is legally

separated from the individual under a decree of divorce or separate maintenance); and

(B) His or her children, grandchildren, and parents.

(2) For purposes of subparagraph (B) of paragraph (1), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(b) (1) Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

(2) (A) Stock owned, directly or indirectly, by or for a trust (other than an employees' trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 17631) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

(B) Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under Sections 671 to 678, inclusive, of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned, directly or indirectly, by or for such corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation.

(c) (1) Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

(2) (A) Stock owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 17631) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this subparagraph, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property.

(B) Stock owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under Sections 671 to 678, inclusive, of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the stock owned, directly or indirectly, by or for such person.

(d) If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this

paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(e) (1) Except as provided in paragraphs (2) and (3), stock constructively owned by a person by reason of the application of subdivision (a), (b), (c), or (d) shall, for purposes of applying subdivision (a), (b), (c), or (d), be treated as actually owned by such person.

(2) Stock constructively owned by an individual by reason of the application of subdivision (a) shall not be treated as owned by him or her for purposes of again applying subdivision (a) in order to make another the constructive owner of such stock.

(3) Stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of subdivision (c) shall not be considered as owned by it for purposes of applying subdivision (b) in order to make another the constructive owner of such stock.

(4) For purposes of this paragraph, if stock may be considered as owned by an individual under subdivision (a) or (d), it shall be considered as owned by him or her under subdivision (d).

SEC. 110. Section 24514 of the Revenue and Taxation Code is amended to read:

24514. (a) This section and Sections 24512 and 24513 shall not apply to any sale or exchange—

(1) Made by a collapsible corporation (as defined in Section 341 (b) of the Internal Revenue Code), or

(2) Following the adoption of a plan of complete liquidation, if Section 24503 applies with respect to such liquidation, or

(3) Made by a corporation all of whose shareholders are not United States persons (as defined in Section 7701(a)(30) of the Internal Revenue Code of 1954). In the case, however, of a corporation having both United States person and non-United States person shareholders (within the meaning of the preceding sentence) this section and Sections 24512 and 24513 shall apply only to the extent the gain or loss from the sale or exchange represents the United States persons' shareholder interest in the corporation.

(b) In the case of a sale or exchange following the adoption of a plan of complete liquidation, if Section 24502 applies with respect to such liquidation, then

(1) If the basis of the property of the liquidating corporation in the hands of the distributee is determined under Section 24504(b)(1), this section and Sections 24512 and 24513 shall not apply; or

(2) If the basis of the property of the liquidating corporation in the hands of the distributee is determined under Section 24504(b)(2), this section and Sections 24512 and 24513 shall apply only to that portion (if any) of the gain which is not greater than the excess of (A) that portion of the adjusted basis (adjusted for any adjustment required under the second sentence of Section 24504(b)(2) of the stock of the liquidating corporation which is allocable, under regulations prescribed by the Franchise Tax Board, to the property

sold or exchanged, over (B) the adjusted basis, in the hands of the liquidating corporation, of the property sold or exchanged.

(c) (1) Subdivision (b) shall not apply to a sale or exchange by a corporation (hereinafter in this subdivision referred to as the "selling corporation") if:

(A) Within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

(B) None of the complete liquidations referred to in subparagraph (A) is a liquidation with respect to which Section 24503 applies.

(2) For purposes of paragraph (1):

(A) The term "distributee corporation" means a corporation in the chain of includable corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in paragraph (1) (A).

(B) The term "chain of includable corporation" includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includable corporations for purposes of Section 23361. Such term includes, where appropriate, the common parent corporation.

(d) The amendment made to subdivision (b) by the 1977–78 Regular Session of the Legislature shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1976.

SEC. 111. Section 24601 of the Revenue and Taxation Code is amended to read:

24601. If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing, or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall not be deductible under Section 24343 (relating to trade or business expenses) but if they satisfy the conditions of the section, they shall be deductible under this section, subject, however, to the following limitations as to the amounts deductible in any year:

(a) In the income year when paid, if the contributions are paid into a pension trust, and if such income year ends within or with an income year of the trust for which the trust is exempt under Section 401(a) of the Internal Revenue Code, in an amount determined as follows:

(1) The amount necessary to satisfy the minimum funding standard provided by Section 412(a) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) for plan years ending within or with such income year (or for any prior plan year), if such amount is greater than the amount determined under paragraph (2) or (3)

(whichever is applicable with respect to the plan),

(2) The amount necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the Franchise Tax Board, but if such remaining unfunded cost with respect to any three individuals is more than 50 percent of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least five income years.

(3) An amount equal to the normal cost of the plan, as determined under regulations prescribed by the Franchise Tax Board, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount necessary to amortize such credits in equal annual payments (until fully amortized) over 10 years, as determined under regulations prescribed by the Franchise Tax Board.

In determining the amount deductible in such year under the foregoing limitations the funding method and the actuarial assumptions used shall be those used for such year under Section 412 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) and the maximum amount deductible for such year shall be an amount equal to the full funding limitation for such year determined under Section 412 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(b) In the case of a plan which the Secretary of Labor finds to be collectively bargained which makes an election under this subdivision (in such manner and at such time as may be provided under regulations prescribed by the Franchise Tax Board), if the full funding limitation determined under Section 412(c)(7) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) for such year is zero, if as a result of any plan amendment applying to such plan year, the amount determined under Section 412(c)(7)(B) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) exceeds the amount determined under section 412 (c)(7)(A) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), and if the funding method and the actuarial assumptions used are those used for such year under Section 412 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), the maximum amount deductible in such year under the limitations of this paragraph shall be an amount equal to the lesser of—

(1) The full funding limitation for such year determined by applying Section 412(c)(7) of the Internal Revenue Code of 1954 as

amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) but increasing the amount referred to in subparagraph (A) thereof by the decrease in the present value of all unamortized liabilities resulting from such amendment, or

(2) The normal cost under the plan reduced by the amount necessary to amortize in equal annual installments over 10 years (until fully amortized) the decreased described in paragraph (1). In the case of any election under this subdivision, the amount deductible under the limitations of this section with respect to any of the plan years following the plan year for which such election was made shall be determined as provided under such regulations as may be prescribed by the Franchise Tax Board to carry out the purposes of this subdivision.

(c) In the case of a plan which the Secretary of Labor finds to be collectively bargained, established or maintained by an employer doing business in not less than 40 states and engaged in the trade or business of furnishing or selling services described in Section 167(*l*)(3)(A)(iii), with respect to which the rates have been established or approved by a state or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commision or other similar body of any state or political subdivision thereof, and in the case of any employer which is a member of a controlled group with such employer, subdivision (b) shall be applied by substituting for the words "plan amendment" the words "plan amendment or increase in benefits payable under Title II of the Social Security Act." For purposes of this subdivision, the term "controlled group" has the meaning provided by Section 1563(a) of the Internal Revenue Code of 1954, determined without regard to Section 1563(a)(4) and (e)(3)(C) of the Internal Revenue Code of 1954.

(d) Any amount paid in an income year in excess of the amount deductible in such year under the foregoing limitations shall be deductible in the succeeding income years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the maximum amount deductible for such year under the foregoing limitations.

SEC. 112. Section 24602 of the Revenue and Taxation Code is amended to read:

24602. In the income year when paid, in an amount determined in accordance with Section 24601, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 401(a)(3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (22) of the Internal Revenue Code, and, if applicable, the requirements of Section 401(a)(9), (10), (17), and (18) and of Section 401 (d) (other than paragraph (1)) of the Internal Revenue Code, and if refunds of premiums, if any, are applied within the current income year or next succeeding income year toward the purchase of such retirement annuities.

SEC. 113. Section 24603 of the Revenue and Taxation Code is amended to read:

24603. (a) In the income year when paid if the contributions are paid into a stock bonus or profit-sharing trust, and if such income year ends within or with an income year of the trust with respect to which the trust is exempt under Section 401(a) of the Internal Revenue Code, in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the income year to all employees under the stock bonus or profit-sharing plan. If in any income year there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible shall be carried forward and be deductible when paid in the succeeding income years in order of time, but the amount so deductible under this sentence in any such succeeding income year shall not exceed 15 percent of the compensation otherwise paid or accrued during such succeeding income year to the beneficiaries under the plan, but the amount so deductible under this sentence in any one succeeding income year together with the amount so deductible under the first sentence of this subdivision shall not exceed 25 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. In addition, any amount paid into the trust in any income year in excess of the amount allowable with respect to such year under the preceding provisions of this subsection shall be deductible in the succeeding income years in order of time, but the amount so deductible under this sentence in any one such succeeding income year together with the amount allowable under the first sentence of this subsection shall not exceed 15 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. The term "stock bonus or profit-sharing trust," as used in this subsection, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determine actuarially as provided in Section 24601. If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for purposes of applying the limitations in this subsection.

(b) In the case of a profit-sharing plan, or a stock bonus plan in which contributions are determined with reference to profits, of a group of corporations which is an affiliated group within the meaning of Section 1504 of the Federal Internal Revenue Code of 1954, if any member of such affiliated group is prevented from making a contribution which it would otherwise have made under the plan, by reason of having no current or accumulated earnings or profits or because such earnings or profits are less than the contributions which it would otherwise have made, then so much of the contribution which such member was so prevented from making may be made, for the benefit of the employees of such member, by

the other members of the group, to the extent of current or accumulated earnings or profits, except that such contribution by each such other member shall be limited, where the group does not file a consolidated return, to that proportion of its total current and accumulated earnings or profits remaining after adjustment for its contribution deductible without regard to this subsection which the total prevented contribution bears to the total current and accumulated earnings or profits of all members of the group remaining after adjustment for all contributions deductible without regard to this subsection. Contributions made under the preceding sentence shall be deductible under subsection (a) by the employer making such contribution, and, for the purpose of determining amounts which may be carried forward and deducted under the second sentence of subsection (a) in succeeding income years, shall be deemed to have been made by the employer on behalf of whose employees such contributions were made.

SEC. 114. Section 24605 of the Revenue and Taxation Code is amended to read:

24605. If a stock bonus, pension, or profit-sharing trust would qualify for exemption under Section 401 (a) of the Internal Revenue Code except for the fact that it is a trust created or organized outside the United States, contributions to such a trust by an employer which is a resident, or corporation, or other entity of the United States, shall be deductible under the preceding sections.

SEC. 115. Section 24610 of the Revenue and Taxation Code is amended to read:

24610. If contributions are paid by an employer—

(a) Under a plan under which such contributions are held in trust for the purpose of paying (either from principal or income or both) for the benefit of employees and their families and dependents at least medical or hospital care, or pensions on retirement or death of employees; and

(b) Such plan was established prior to January 1, 1954, as a result of an agreement between employee representatives and the government of the United States during a period of government operation, under seizure powers, of a major part of the productive facilities of the industry in which such employer is engaged,

such contributions shall not be deductible under this article or be made nondeductible by this article, but the deductibility thereof shall be governed solely by Section 24343 (relating to trade or business expenses). For purposes of this article and Part 8 and Part 9 of this division, in the case of any individual who before July 1, 1974, was a participant in a plan described in the preceding sentence—

(A) Such individual, if he is or was an employee within the meaning of Section 401 (c) (1) of the Internal Revenue Code, shall be treated (with respect to service covered by the plan) as being an employee other than an employee within the meaning of Section 401 (c) (1) of the Internal Revenue Code and as being an employee of a participating employer under the plan,

(B) Earnings derived from service covered by the plan shall be treated as not being earned income within the meaning of Section 401(c)(2) of the Internal Revenue Code, and

(C) Such individuals shall be treated as an employee of a participating employer under the plan with respect to service before July 1, 1975, covered by the plan.

Section 24437 (relating to deductions incurred by certain membership organizations in transactions with members) does not apply to any trust described in this section. The first and third sentences of this section shall have no application with respect to amounts contributed to a trust on or after any date on which such trust is qualified for exemption from tax under Section 17631 of Part 10 of Division 2 of this code.

SEC. 116. Section 24611 of the Revenue and Taxation Code is amended to read:

24611. The provisions of Section 404A of the Internal Revenue Code concerned with foreign deferred compensation plans shall apply to such plans under this part.

SEC. 117. Section 24612 of the Revenue and Taxation Code is amended to read:

24612. If a stock bonus, pension, or profit-sharing trust would qualify for exemption under Section 401(a) of the Internal Revenue Code, except for the fact that it is a trust created or organized outside of this state, contributions to such trust by a bank or corporation subject to the tax imposed by this part shall be deductible to the extent provided by Sections 24601 to 24611, inclusive.

SEC. 118. Section 24613 of the Revenue and Taxation Code is amended to read:

24613. For purposes of applying Sections 24601 to 24611, inclusive, with respect to contributions made to or under a pension, profit-sharing, stock bonus or annuity, plan by a domestic corporation (i.e., a corporation created or organized within the United States), or by another corporation which is entitled to deduct its contributions under Section 24603(b), on behalf of an individual who is treated as an employee of such domestic corporation under Section 406(a) of the Internal Revenue Code—

(1) Except as provided in paragraph (2), no deduction shall be allowed to such domestic corporation or to any other corporation which is entitled to deduct its contributions under such sections,

(2) There shall be allowed as a deduction to the foreign subsidiary of which such individual is an employee an amount equal to the amount which (but for paragraph (1)) would be deductible under Sections 24601 to 24611, by the domestic corporation if he were an employee of the domestic corporation, and

(3) Any reference to compensation shall be considered to be a reference to the total compensation of such individual (determined with the application of Section 406(b)(2) of the Internal Revenue Code).

Any amount deductible by a foreign subsidiary under this section

shall be deductible for its year with or within which the income year of such domestic corporation ends.

SEC. 119. Section 24614 of the Revenue and Taxation Code is amended to read:

24614. For purposes of applying Sections 24601 to 24611, inclusive, with respect to contributions made to or under a pension, profit-sharing, stock bonus, or annuity, plan by a domestic parent corporation (i.e., a corporation created or organized within the United States), or by another corporation which is entitled to deduct its contributions under Section 24603(b), on behalf of an individual who is treated as an employee of such domestic corporation under Section 407(a) of the Internal Revenue Code—

(1) Except as provided in paragraph (2), no deduction shall be allowed to such domestic parent corporation or to any other corporation which is entitled to deduct its contributions under such sections,

(2) There shall be allowed as a deduction to the domestic subsidiary of which such individual is an employee an amount equal to the amount which (but for paragraph (1)) would be deductible under Sections 24601 to 24611, inclusive, by the domestic parent corporation if he were an employee of the domestic parent corporation, and

(3) Any reference to compensation shall be considered to be a reference to the total compensation of such individual (determined with the application of Section 407(b)(2) of the Internal Revenue Code).

Any amount deductible by a domestic subsidiary under this section shall be deductible for its income year with or within which the income year of such domestic parent corporation ends.

SEC. 120. Section 24621 of the Revenue and Taxation Code is amended to read:

24621. If a share of stock is transferred to an individual in a transfer in respect of which the requirements of Section 422(a), 422A(a), 423(a), or 424(a) of the Internal Revenue Code are met—

(a) Except as provided in Section 422(c)(1) of the Internal Revenue Code), no income shall result at the time of the transfer of the share to the individual upon his or her exercise of the option with respect to the share;

(b) No deduction under Section 24343 (relating to trade or business expenses) shall be allowable at any time to the employer corporation, a parent or subsidiary corporation of such corporation, or a corporation issuing or assuming a stock option in a transaction to which Section 425(a) of the Internal Revenue Code applies, with respect to the share so transferred; and

(c) No amount other than the price paid under the option shall be considered as received by any of those corporations for the share so transferred.

(d) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised

on or after January 1, 1982.

SEC. 121. Section 24622 of the Revenue and Taxation Code is amended to read:

24622. (a) If the transfer of a share of stock to an individual pursuant to his or her exercise of an option would otherwise meet the requirements of Section 422(a), 422A(a), 423(a), or 424(a) of the Internal Revenue Code, except that there is a failure to meet any of the holding period requirements of Section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1) of the Internal Revenue Code, then any deduction from the income of the employer corporation for the income year in which the exercise occurred attributable to that disposition, shall be treated as a deduction from income in the income year of the employer corporation in which that disposition occurred.

(b) If an individual who has acquired a share of stock by the exercise of a qualified stock option or an incentive stock option makes a disposition of the share within the three-year period described in Section 422(a)(1) of the Internal Revenue Code or the two-year period described in Section 422A(a)(1) of the Internal Revenue Code, and the disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to the individual, then the amount which is deductible from the income of the employer corporation, shall not exceed the excess (if any) of the amount realized on the sale or exchange over the adjusted basis of the share.

(c) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 122. Section 24662 of the Revenue and Taxation Code is amended to read:

24662. (a) (1) In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the income year following the income year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following income year.

For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (A) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (B) the inability to plant crops because of such a natural disaster, shall be treated as insurance proceeds received as a result of destruction or damage to crops.

An election under this section for any income year shall be made at such time and in such manner as the Franchise Tax Board prescribes.

(2) The amendment made to paragraph (1) by the 1977–78 Regular Session of the Legislature shall apply to payments received after income years beginning after December 31, 1976.

(b) (1) In the case of income derived from the sale or exchange of livestock (other than livestock described in Section 1231(b)(3) of the Internal Revenue Code) in excess of the number the taxpayer would sell if it followed its usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the income year following the income year in which such sale or exchange occurs if it establishes that, under its usual business practices, the sale or exchange would not have occurred in the income year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the federal government.

(2) Subdivision (a) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of Section 6420(c)(3) of the Internal Revenue Code of 1954).

SEC. 123. Section 24837 of the Revenue and Taxation Code is amended to read:

24837. (a) In the case of expenditures paid or incurred during the income year for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, and paid or incurred prior to the beginning of the development stage of the mine or deposit, in computing net income there shall be allowed as a deduction so much of such expenditures as does not exceed seventy-five thousand dollars ($75,000).

This section shall apply only with respect to the amount of such expenditures which, but for this section, would not be allowable as a deduction for the income year.

This section shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in Section 24349, but allowances for depreciation shall be considered, for the purposes of this section, as expenditures paid or incurred.

In no case shall this section apply with respect to amounts paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas.

(b) If the taxpayer elects, in accordance with regulations prescribed by the Franchise Tax Board, to treat as deferred expenses any portion of the amount deductible for the income year under subdivision (a), such portion shall not be deductible in the manner provided in subdivision (a) but shall be deductible on a ratable basis as the units of produced ores or minerals discovered or explored by reason of such expenditures are sold. An election made under this subdivision for any income year shall be binding for such year.

(c) This section shall not apply to any amounts paid or incurred in any income year if in any four preceding years the taxpayer, or any individual or corporation who has transferred to the taxpayer any mineral property under circumstances which make the provisions of Section 723 or 1082(c) of the Internal Revenue Code or Section 24552, 24553, 24577, 24575, 24961, 24988, or 25404 applicable to such

transfer, has either (1) been allowed a deduction under subdivision (a) of this section or (2) made the election provided under subdivision (b) of this section.

(d) The amount of expenditures which are treated under subdivision (b) as deferred expenses shall be taken into account in computing the adjusted basis of the mine or deposit, but such amounts, and the adjustments to basis provided in subdivision (f) of Section 24916 shall be disregarded in determining the adjusted basis of the property for the purpose of computing a deduction for depletion under this chapter.

(e) The provisions of this section shall not apply with respect to expenditures paid or incurred after December 31, 1970.

SEC. 124. Section 24837.5 of the Revenue and Taxation Code is amended to read:

24837.5. (a) (1) At the election of the taxpayer, expenditures paid or incurred during the income year for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, and paid or incurred before the beginning of the development stage of the mine, shall be allowed as a deduction in computing net income. This subdivision shall apply only with respect to the amount of such expenditures which, but for this subdivision, would not be allowable as a deduction for the income year. This subdivision shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in Sections 24349 to 24354.2, inclusive, but allowances for depreciation shall be considered, for purposes of this subdivision, as expenditures paid or incurred. In no case shall this subdivision apply with respect to amounts paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas or of any mineral with respect to which a deduction for percentage depletion is not allowable under Section 24832 or 24833.

(2) (A) Any election under this subdivision shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(B) The election provided by paragraph (1) for the income year may be made at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this part for the income year. Such an election for the income year shall apply to all expenditures described in paragraph (1) paid or incurred by the taxpayer during the income year or during any subsequent income year.

(C) The statutory period for the assessment of any deficiency for any income year, to the extent such deficiency is attributable to an election or revocation of an election under this subdivision, shall not expire before the last day of the three-year period beginning on the day after the date on which such election or revocation of election is made; and such deficiency may be assessed at any time before the expiration of such three-year period, notwithstanding any law or rule of law which would otherwise prevent such assessment.

(b) (1) If, in any income year, any mine with respect to which expenditures were deducted pursuant to subdivision (a) reaches the producing stage, then—

(A) If the taxpayer so elects with respect to all such mines reaching the producing stage during the income year, it shall include in gross income for the income year an amount equal to the adjusted exploration expenditures with respect to such mines, and the amount so included in income shall be treated for purposes of this part as expenditures which (i) are paid or incurred on the respective dates on which the mines reach the producing state, and (ii) are properly chargeable to capital account.

(B) If subparagraph (A) does not apply with respect to any such mine, then the deduction for depletion under Section 24831 with respect to the property shall be disallowed until the amount of depletion which would be allowable but for this subparagraph equals the amount of the adjusted exploration expenditures with respect to such mine.

(2) (A) Any election under this subdivision shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(B) The election provided by paragraph (1) for any income year may be made or changed not later than the time prescribed by law for filing the return (including extensions thereof) for such income year.

(c) If an election has been made under subdivision (a) with respect to expenditures relating to a mining property and the taxpayer receives or accrues a bonus or a royalty with respect to such property, then the deduction for depletion under Section 24831 with respect to the bonus or royalty shall be disallowed until the amount of depletion which would be allowable but for this subdivision equals the amount of the adjusted exploration expenditures with respect to the property to which the bonus or royalty relates.

(d) (1) Except as otherwise provided in this subdivision if mining property is disposed of the lower of—

(A) The adjusted exploration expenditures with respect to such property, or

(B) The excess of—

(i) The amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value (in the case of any other disposition), over

(ii) The adjusted basis of such property,

shall be treated as gain from the sale or exchange of property. Such gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of paragraph (1)—

(A) In the case of the disposition of a portion of a mining property (other than an undivided interest), the entire amount of the adjusted exploration expenditures with respect to such property shall be treated as attributable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

(B) In the case of the disposition of an undivided interest in a mining property (or a portion thereof), a proportionate part of the adjusted exploration expenditures with respect to such property shall be treated as attributable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditure to the extent the taxpayer establishes to the satisfaction of the Franchise Tax Board that such expenditure relates neither to the portion (or interest therein) disposed of nor to any mine, in the property held by the taxpayer before the disposition which has reached the producing stage.

(3) This subdivision shall apply notwithstanding any other provisions of this part.

(e) (1) The basis of any property shall not be reduced by the amount of any depletion which would be allowable but for the application of this section.

(2) The Franchise Tax Board shall prescribe such regulation as it may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under paragraph (1) of subdivision (d).

(f) For purposes of this section—

(1) The term "adjusted exploration expenditures" means, with respect to any property or mine—

(A) The amount of the expenditures allowed for the income year and all preceding income years as deductions under subdivision (a) to the taxpayer or any other person which are properly chargeable to such property or mine and which (but for the election under subdivision (a)) would be reflected in the adjusted basis of such property or mine, reduced by

(B) For the income year and for each preceding income year, the amount (if any) by which (i) the amount which would have been allowable for percentage depletion under Section 24832 or 24833 but for the deduction of such expenditures, exceeds (ii) the amount allowable for depletion under Section 24831

properly adjusted for any amounts included in gross income under subdivision (b) or (c) and for any amounts of gain to which subdivision (d) applied.

(2) The term "mining property" means any property (within the meaning of Section 614 of the Internal Revenue Code after the application of subsections (c) and (e) thereof) with respect to which any expenditures allowed as a deduction under paragraph (1) of subdivision (a) are properly chargeable.

(g) (1) In the case of any property or mine received by the taxpayer in a distribution with respect to part or all of its interest in a partnership, the adjusted exploration expenditures with respect to such property or mine include the adjusted exploration expenditures (not otherwise included under paragraph (1) of subdivision (f) of this section) with respect to such property or mine immediately prior to such distribution, but the adjusted exploration expenditures

with respect to any such property or mine shall be reduced by the amount of gain to which Section 751(b) of the Internal Revenue Code applied realized by the partnership (as constituted after the distribution) on the distribution of such property or mine.

(2) In the case of any property or mine held by a partnership after a distribution to a partner to which Section 751(b) of the Internal Revenue Code applied, the adjusted exploration expenditures with respect to such property or mine shall, under regulations prescribed by the Franchise Tax Board be reduced by the amount of gain to which Section 751(b) of the Internal Revenue Code applied realized by such partner with respect to such distribution on account of such property or mine.

(h) (1) Subdivision (a) shall apply to any amount paid or incurred after December 31, 1970, with respect to any deposit of ore or other mineral located outside the United States, only to the extent that such amount, when added to the amounts which are or have been deducted under subdivision (a) of this section and subdivision (a) of Section 24837 and the amounts which are or have been treated as deferred expenses under subdivision (b) of Section 24837 or the corresponding provisions of prior law, does not exceed four hundred thousand dollars ($400,000).

(2) For purposes of paragraph (1), there shall be taken into account amounts deducted and amounts treated as deferred expenses by—

(A) The taxpayer, and

(B) Any individual or corporation who has transferred to the taxpayer any mineral property.

(3) Subparagraph (B) of paragraph (2) shall apply with respect to all amounts deducted and all amounts treated as deferred expenses which were paid or incurred before the latest such transfer from the individual or corporation to the taxpayer. Subparagraph (B) of paragraph (2) shall apply only if the taxpayer acquired any mineral property from the individual or corporation under circumstances which make Section 1082(c) of the Internal Revenue Code, or subdivision (b) of Section 24504, Sections 24552, 24553, 24575, subdivision (a) of Section 24577, Section 24961, or 24988 apply to such transfer.

(i) This section shall apply with respect to exploration expenditures paid or incurred after December 31, 1970.

SEC. 125. Section 24918 of the Revenue and Taxation Code is amended to read:

24918. (a) If—

(1) An amount is excluded from gross income under subdivision (a) of Section 24307 (relating to discharge of indebtedness), and

(2) Under subparagraph (D) of paragraph (2) of subdivision (b), paragraph (5) of subdivision (b), or subparagraph (A) of paragraph (1) of subdivision (c) of Section 24307, any portion of such amount is to be applied to reduce basis,

then such portion shall be applied in reduction of the basis of any

property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

(b) (1) The amount of reduction to be applied under subdivision (a) (not in excess of the portion referred to in subdivision (a)), and the particular properties the bases of which are to be reduced, shall be determined under regulations prescribed by the Franchise Tax Board.

(2) In the case of a discharge to which subparagraph (B) of paragraph (1) of subdivision (a) of Section 24307 applies, the reduction in basis under subdivision (a) of this section shall not exceed the excess of—

(A) The aggregate of the bases of the property held by the taxpayer immediately after the discharge, over

(B) The aggregate of the liabilities of the taxpayer immediately after the discharge.

The preceding sentence shall not apply to any reduction in basis by reason of an election under paragraph (5) of subdivision (b) of Section 24307.

(3) (A) Any amount which under paragraph (5) of subdivision (b) or subparagraph (A) of paragraph (1) of subdivision (c) of Section 24307 is to be applied to reduce the basis shall be applied only to reduce the basis of depreciable property held by the taxpayer.

(B) For purposes of this section, the term "depreciable property" means any property of a character subject to the allowance for depreciation, but only if a basis reduction under subdivision (a) will reduce the amount of depreciation or amortization which otherwise would be allowable for the period immediately following such reduction.

(C) For purposes of this section, any interest of a partner in a partnership shall be treated as depreciable property to the extent of such partner's proportionate interest in the depreciable property held by such partnership. The preceding sentence shall apply only if there is a corresponding reduction in the partnership's basis in depreciable property with respect to such partner.

(D) For purposes of this section, if—

(i) A corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the "subsidiary"), and

(ii) Such corporations are members of the same unitary group which file a combined report under Section 25101 for the income year in which the discharge occurs,

then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

(E) (i) At the election of the taxpayer, for purposes of this section, the term "depreciable property" includes any real property which is described in Section 1221 (1) of the Internal Revenue Code.

(ii) An election under clause (i) shall be made on the taxpayer's return for the income year in which the discharge occurs or at such

other time as may be permitted in regulations prescribed by the Franchise Tax Board. Such an election, once made, may be revoked only with the consent of the Franchise Tax Board.

(c) For purposes of this title, a reduction in basis under this section shall not be treated as a disposition.

SEC. 126. It is the intent of the Legislature, if this bill and Assembly Bill 710 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 17054 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 710, that Section 17054 of the Revenue and Taxation Code, as amended by Section 2 of Assembly Bill 710, be further amended on the effective date of this act in the form set forth in Section 13.5 of this act to incorporate the changes in Section 13 proposed by this bill. Therefore, if this bill and Assembly Bill 710 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 710 is chaptered before this bill and amends Section 17054, Section 13.5 of this act shall become operative on the effective date of this act and Section 13 of this act shall not become operative.

SEC. 127. It is the intent of the Legislature, if this bill and Assembly Bill 153 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 17063 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 153, that Section 17063 of the Revenue and Taxation Code, as amended by Section 31 of Assembly Bill 153, be further amended on the effective date of this act in the form set forth in Section 19.5 of this act to incorporate the changes in Section 19.3 proposed by this bill. Therefore, if this bill and Assembly Bill 153 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 153 is chaptered before this bill and amends Section 17063, Section 19.5 of this act shall become operative on the effective date of this act and Section 19.3 of this act shall not become operative.

SEC. 128. It is the intent of the Legislature, if this bill and Assembly Bill 234 are both chaptered and become effective on or before January 1, 1984, and this bill is chaptered after Assembly Bill 234, that Section 17240 of the Revenue and Taxation Code, as added by Section 29 of this act shall not become operative and Section 17240 of the Revenue and Taxation Code, as added by Section 29.5 of this act shall become operative. Therefore, if this bill and Assembly Bill 234 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 234 is chaptered before this bill, Section 29.5 of this act shall become operative on the effective date of this act and Section 17240 of the Revenue and Taxation Code, as added by Section 29 of this act shall not become operative.

SEC. 129. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 489

An act to amend Section 53827 of the Government Code, relating to borrowing by local agencies.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 53827 of the Government Code is amended to read:

53827. The sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the local agency. Notwithstanding the provision of Section 53531, the rate of interest shall not exceed 15 percent a year.

CHAPTER 490

An act to amend Section 437c of the Code of Civil Procedure, relating to procedure.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 437c of the Code of Civil Procedure is amended to read:

437c. (a) Any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense thereto. The motion may be made at any time after 60 days have elapsed since the general appearance in the action or proceeding of each party against whom the motion is directed or at such earlier time after such general appearance as the court, with or without notice and upon good cause shown, may direct. Notice of the motion and supporting papers shall be served on all other parties to the action at least 28 days before the time appointed for hearing. However, if the notice is served by mail, the required 28-day period of notice shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. The motion shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise. The filing of the motion shall not extend the time within which a party must otherwise file a responsive pleading.

(b) The motion shall be supported by affidavits, declarations,

admissions, answers to interrogatories, depositions and matters of which judicial notice shall or may be taken. The supporting papers shall include a separate statement setting forth plainly and concisely all material facts which the moving party contends are undisputed. Each of the material facts stated shall be followed by a reference to the supporting evidence. The failure to comply with this requirement of a separate statement may in the court's discretion constitute a sufficient ground for denial of the motion.

Any opposition to the motion shall be served and filed not less than 14 days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. The opposition, where appropriate, shall consist of affidavits, declarations, admissions, answers to interrogatories, depositions and matters of which judicial notice shall or may be taken. The opposition papers shall include a separate statement which responds to each of the material facts contended by the moving party to be undisputed, indicating whether the opposing party agrees or disagrees that those facts are undisputed. The statement also shall set forth plainly and concisely any other material facts which the opposing party contends are disputed. Each material fact contended by the opposing party to be disputed shall be followed by a reference to the supporting evidence. Failure to comply with this requirement of a separate statement may constitute a sufficient ground, in the court's discretion, for granting the motion.

Any reply to the opposition shall be served and filed by the moving party not less than five days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. Evidentiary objections, not raised here in writing or orally at the hearing, shall be deemed waived.

The provisions of Section 1005 and the provisions of subdivision (a) of Section 1013, extending the time within which a right may be exercised or an act may be done, do not apply to this section.

(c) The motion shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. In determining whether the papers show that there is no triable issue as to any material fact the court shall consider all of the evidence set forth in the papers, except that to which objections have been made and sustained by the court, and all inferences reasonably deducible from such evidence, except summary judgment shall not be granted by the court based on inferences reasonably deducible from such evidence, if contradicted by other inferences or evidence, which raise a triable issue as to any material fact.

(d) Supporting and opposing affidavits or declarations shall be made by any person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

(e) If a party is otherwise entitled to a summary judgment pursuant to the provisions of this section, summary judgment shall

not be denied on grounds of credibility or for want of cross-examination of witnesses furnishing affidavits or declarations in support of the summary judgment, except that summary judgment may be denied in the discretion of the court, where the only proof of a material fact offered in support of the summary judgment is an affidavit or declaration made by an individual who was the sole witness to such fact; or where a material fact is an individual's state of mind, or lack thereof, and such fact is sought to be established solely by the individual's affirmation thereof.

(f) When the moving party moves for summary adjudication of issues, either by itself or as an alternative to summary judgment, if it appears that the proof supports the granting of such motion as to some but not all the issues involved in the action, or that one or more of the issues raised by a claim is admitted, or that one or more of the issues raised by a defense is conceded, the court shall, by order, specify that such issues are without substantial controversy. Moreover, upon that motion, the court shall, by written or oral order, specify those issues raised by the motion as to which there exists a material, triable controversy, and refer to the evidence which establishes a triable issue of fact regarding each of those issues. At the trial of the action the issue so specified shall be deemed established and the action shall proceed as to the issues remaining.

(g) Upon the denial of a motion for summary judgment on the ground that there is a triable issue as to one or more material facts, the court shall, by written or oral order, specify one or more material facts raised by the motion as to which the court has determined there exists a triable controversy. This determination shall specifically refer to the evidence proffered in support of and in opposition to the motion which indicates that such triable controversy exists. The court shall also state its reasons for any other determination. The court shall record its determination by court reporter or written order.

(h) If it appears from the affidavits submitted in opposition to the motion that facts essential to justify opposition may exist but cannot, for reasons stated, then be presented, the court shall deny the motion, or order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as may be just.

(i) If the court determines at any time that any of the affidavits are presented in bad faith or solely for purposes of delay, the court shall order the party presenting such affidavits to pay the other party the amount of the reasonable expenses which the filing of the affidavits caused such other party to incur.

(j) Except where a separate judgment may properly be awarded in the action, no final judgment shall be entered on a motion for summary judgment prior to the termination of the action, but the final judgment shall, in addition to any matters determined in the action, award judgment as established by the summary proceeding herein provided for.

(k) In actions which arise out of an injury to the person or to

property, when a motion for summary judgment was granted on the basis that the defendant was without fault, no other defendant during trial, over plaintiff's objection, may attempt to attribute fault to or comment on the absence or involvement of the defendant who was granted the motion.

(*l*) A summary judgment entered under this section is an appealable judgment as in other cases. Upon entry of any order pursuant to this section except the entry of summary judgment, a party may, within 10 days after service upon him of a written notice of entry of the order, or within such further time not exceeding 20 days as the trial court may for good cause allow, petition an appropriate reviewing court for a peremptory writ. If the notice is served by mail, the period within which to file the petition shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States.

(m) Nothing in this section shall be construed to extend the period for trial provided by Section 1170.5.

(n) The provisions of subdivisions (a) and (b) shall not apply to actions brought pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

CHAPTER 491

An act to add Sections 97.2, 97.4, and 97.6 to the Revenue and Taxation Code, relating to property tax apportionments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 97.2 is added to the Revenue and Taxation Code, to read:

97.2. (a) Where local agencies which levy a property tax rate for indebtedness, other than bonded indebtedness, no higher than the rate for such indebtedness in the 1982–83 fiscal year, or levy no rate for indebtedness, other than bonded indebtedness, if the amount of property tax revenue allocated to a jurisdiction in any or all of the 1978–79, 1979–80, 1980–81, 1981–82, or 1982–83 fiscal years is found to be incorrect due to the inclusion of property taxes levied for voter-approved indebtedness as property tax revenues pursuant to Section 26912 of the Government Code, and subdivision (c) of Section 95 by some local agencies, then, in making the appropriate corrections to each jurisdiction's base-year allocation for those fiscal years, the amount apportioned in the 1983–84 fiscal year and 1984–85

fiscal year shall be based on the base-year amount for the 1982–83 fiscal year, prior to any corrections of the incorrectly included amounts for voter approved indebtedness.

(b) In counties where the allocation of property tax revenue was incorrect for any of, or all of, the fiscal years from 1978–79 to 1982–83, inclusive, due to the inclusion of property taxes levied for voter-approved indebtedness in the calculation of property tax revenues pursuant to Section 26912 of the Government Code or subdivision (c) of Section 95 for any local agency, for the 1985–86 fiscal year property tax allocations, for computations required by this chapter, "the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year" shall be computed as follows:

(1) The allocations for all local jurisdictions for each fiscal year from 1978–79 to 1982–83, inclusive, in which the incorrect allocations were made shall be corrected.

(2) To the corrected 1982–83 base year amount, there shall be added the actual annual tax increment that was allocated in the 1983–84 fiscal year and 1984–85 fiscal year pursuant to subdivision (a).

SEC. 2. Section 97.4 is added to the Revenue and Taxation Code, to read:

97.4. (a) No reductions or increases in apportionments shall be made for the 1983–84 fiscal year or any fiscal year thereafter to adjust for overapportionments or underapportionments resulting from incorrect allocations in any fiscal year from 1978–79 to 1982–83, inclusive, due to the inclusion of property tax levied for voter approved indebtedness as property tax revenue.

(b) No reductions or increases in apportionments shall be made for the 1985–86 fiscal year or any fiscal year thereafter to adjust for overapportionments or underapportionments in the 1983–84 and 1984–85 fiscal years due to the inclusion of property tax levied for voter approved indebtedness in the calculation of property tax revenue.

SEC. 3. Section 97.6 is added to the Revenue and Taxation Code, to read:

97.6. (a) For the 1983–84 and 1984–85 fiscal years no local agency shall impose a property tax rate pursuant to subdivision (a) of Section 93 for other than bonded indebtedness which is in excess of the rate, if any, imposed in the 1982–83 fiscal year or imposed for the 1983–84 fiscal year pursuant to a budget resolution adopted on or before July 1, 1983, which contemplated the levy of an additional property tax rate for pension system costs, whichever rate is higher, for other than bonded indebtedness. This section shall be deemed to be a maximum tax rate pursuant to Section 20 of Article XIII of the California Constitution.

(b) If a local agency imposes a rate in excess of the maximum rate authorized by subdivision (a), the amount of property tax allocated to agency pursuant to this chapter shall be reduced by one dollar ($1) for each one dollar ($1) of property tax revenue attributable to the

excess rate.

(c) Any property tax revenue which has been subtracted from a local agency's allocation pursuant to subdivision (b) shall be allocated to elementary, high school, and unified school districts within the agency's jurisdiction in proportion to the average daily attendance of each such district.

(d) As used in this section, "bonded indebtedness" means any bond obligation of a local government which was approved by the voters of such jurisdiction prior to July 1, 1978.

SEC. 4. The Legislative Analyst shall study, in cooperation with Department of Finance, and report to the Legislature on June 30, 1984, on the rate of tax which could have been levied by each local agency for other indebtedness in the 1984–85 fiscal year in the absence of the provisions enacted by this act and the rate actually levied in each agency.

SEC. 5. It is the intent of the Legislature in enacting this act to postpone until the 1985–86 fiscal year all issues relating to local property tax rates for indebtedness other than bonded indebtedness, including the question of correction of property tax allocations prospectively when other indebtedness was used in the computation of property tax revenues as a basis of the allocation of the revenue from the 1 percent rate. However, it is the intent of the Legislature that no retroactive adjustments shall be made because actual amounts apportioned for the 1978–79 fiscal year to the 1982–83 fiscal year, inclusive, were incorrect because voter approved indebtedness was included as "property tax revenue," and that any such corrections shall be limited to establish the correct base year amount to compute property tax allocations for the 1985–86 fiscal year and thereafter.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act affirms for the state that which has been declared existing law or regulation by action of the courts.

SEC. 7. This act is an ugency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the allocation of property tax revenues for the 1983–84 fiscal year may be made in accordance with the provisions of this act, it is necessary that this act go into immediate effect.

CHAPTER 492

An act to amend Section 18935 of the Health and Safety Code, relating to the State Building Standards Code.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 18935 of the Health and Safety Code is amended to read:

18935. (a) Notice of proposed building standards shall be given and hearings shall be held by the adopting agencies, as required by the Administrative Procedure Act, prior to the adoption of the building standards and submission to the commission for approval.

(b) In order to assure an absence of conflict between hearings and a maximum opportunity for interested parties to be heard, no hearings by adopting agencies shall be conducted unless the time and place thereof has been approved in writing by the commission prior to public notices of the hearing being given by the adopting agencies.

(c) If, after standards are submitted to the commission for approval, the commission requires changes therein as a condition for approval, and the changes are made, no additional hearing by the affected state agency shall be required in connection with making the changes when the commission determines the changes are nonsubstantial, solely grammatical in nature, or are sufficiently related to the text submitted to the commission for approval that the public was adequately placed on notice that the change could result from the originally proposed standards.

CHAPTER 493

An act to add Section 68926.1 to the Government Code, relating to courts.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 68926.1 is added to the Government Code, to read:

68926.1. Upon filing a notice of appeal for which a fee is paid pursuant to Section 68926, the appellant shall deposit the sum of fifty dollars ($50) with the clerk of the originating court. The deposit shall be credited against the amount chargeable for the preparation of the

clerk's transcript or for indexing in lieu of preparation of the clerk's transcript.

The deposit shall be forfeited in the event of abandonment or dismissal of appeal prior to filing of the record in the reviewing court. The deposit shall be refunded upon a showing that the record on appeal was perfected without a clerk's transcript or indexing.

No deposit shall be collected if concurrent with filing a notice of appeal the appellant files a notice of election to proceed by appendix prepared by the appellant or jointly by the parties to the appeal as provided by Judicial Council rule.

CHAPTER 494

An act to add Chapter 11 (commencing with Section 73001) to Division 22 of the Food and Agricultural Code, relating to navel oranges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Chapter 11 (commencing with Section 73001) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 11. CALIFORNIA NAVEL ORANGE COMMISSION

Article 1. Declaration and General Provisions

73001. The navel orange industry in this state constitutes one of California's principal tree fruit crops, and thus provides an important source of employment for many people in the state.

73002. Opportunity exists for continued growth and expansion of the industry by creating new markets in this country and abroad. The success of an expansion program is uniquely dependent upon effective advertising and promotion, since the creation of new markets and increased per capita consumption are essentially a matter of educating people to the use of highly nutritious navel oranges.

73003. The creation of a California Navel Orange Commission is necessary for the efficient development and management of an advertising and promotion program and essential to ensure that the California navel orange industry can compete successfully in the world marketplace.

73004. The production and marketing of navel oranges produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this

state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state

73005. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, and marketing research.

73006. No action taken by the commission, nor by any individual in accordance with this chapter or with the rules and regulations adopted under the chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

Article 2. Definitions

73051. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

73052. "Navel orange" means those oranges belonging to the genus Citrus, species sinensis (Linnaeus) Osbeck, and characterized by being seedless and having a navel at the apex, commonly known as navels and marketed for fresh consumption.

73053. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to of this chapter.

73054. "Carton" means a container holding approximately 40 pounds, or the equivalent thereof, of navel oranges marketed for fresh consumption.

73055. "Commission" means the California Navel Orange Commission.

73056. "Commissioner" means any member of the commission.

73057. "Consumer communications" means, as defined by the commission, all manner of advertising and other communications which are directed towards the general consuming public.

73058. "Cooperative handler" means a handler organized under this code and the Capper-Volstead Act (Chapter 12 (commencing with Section 291) of Title 7 of the United States Code) who markets fruit for producer members.

73059. "Cooperative producer" means a producer who markets his or her fruit through a cooperative handler.

73060. "Director" means the Director of Food and Agriculture.

73061. "Districts" mean the following:

(a) District A consists of the Counties of Fresno, Madera, Butte, Colusa, Glenn, Merced, Placer, Shasta, Solano, Sonoma, Stanislaus, Sutter, Tehama, Yolo, Yuba, and all other counties not included in Districts B, C, D, E, and F.

(b) District B consists of that portion of Tulare County located

between the northern boundary of Tulare County and a straight east-west line made up and defined by Avenue 384.

(c) District C consists of that portion of Tulare County located between Avenue 384, and a straight east-west line made up and defined by Avenue 232.

(d) District D consists of that portion of Tulare County located between Avenue 232 and the southern boundary of Tulare County.

(e) District E consists of Kern County.

(f) District F consists of the Counties of Riverside, San Bernardino, San Diego, San Luis Obispo, Imperial, Los Angeles, Mono, Orange, Santa Barbara, and Ventura.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, to maintain similar total production among the districts and to ensure proper representation by producers. The boundaries need not coincide with county lines.

73062. "Ex officio member" means a nonvoting member of the commission.

73063. "Handle" means to engage in the business of a handler.

73064. "Handler" means any person who engages in the operation of selling or marketing navel oranges for fresh consumption which he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, or broker or otherwise. It does not, however, include a retailer, except a retailer who purchases or acquires from, or handles on behalf of, any producer navel oranges which were not previously subject to regulation by the commission.

73065. "Independent handler" means a handler, other than a cooperative handler, who markets fruit for independent producers.

73066. "Independent producer" means a producer who markets his or her fruit primarily through an independent handler.

73067. "Market" or "marketing" means to sell or otherwise distribute navel oranges into commercial channels of trade for fresh consumption in a manner resulting in the sale of the navel oranges.

73068. "Marketing research" means any research relating to the sale of navel oranges.

73069. "Marketing season" or "fiscal year" means the period beginning October 1 of any year and extending through September 30 of the following year. However, the 1983–84 marketing season shall commence within 15 days after the election of the first commission members as provided in Article 5 (commencing with Section 73201).

73070. "Producer" or "grower" means any person who is engaged within this state in the business of producing, or causing to be produced, navel oranges for market.

Article 3. The California Navel Orange Commission

73101. There is in the state government the California Navel Orange Commission. The commission shall be composed of 12 producers who are not handlers, four handlers, and one public member.

73102. Six producers, one from each district shall be nominated and elected by and from independent producers. Six producers, one from each district shall be nominated and elected by and from cooperative producers.

73103. Except as provided in Section 73104, two cooperative handler members shall be nominated and elected by and from cooperative handlers. Two independent handler members shall be nominated and elected by and from independent handlers. No handler may be represented on the commission by more than one handler member.

73104. If a handler markets 50 percent or more of the volume of the navel oranges in the preceding marketing season, as annually determined by the director, the handler is entitled to nominate and elect two handler members. All other handlers subject to this chapter shall nominate and elect two handler members. Any handler with two handler members on the commission, who later is not entitled to elect two handler members, shall remove one of its two members and the member's alternate in a manner prescribed by the commission. The vacancy shall be filled in accordance with Section 73112.

73105. The public member shall be appointed to the commission by the director from the nominees recommended by the commission.

73106. The director, citrus grower trade organizations primarily involved in issues affecting the orange industry, and other appropriate individuals and organizations, as determined by the commission, are ex officio members of the commission.

73107. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

(b) If the commission refuses or fails to cease the activities or functions or to make the corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions required by the director has been accomplished by the commission.

73108. (a) Actions of the commission in violation of a written notice have no legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(b) Upon service of the written notice, the director shall notify the commission, in writing, of the specific acts which he or she determines are not in the public interest or are in violation of this chapter and his or her reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and he or she may make recommendations that will make the activities or functions acceptable.

73109. The commission may bring an action for judicial relief from the director's written notice, and the director may bring an action for judicial relief from noncompliance by the commission with the written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

73110. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities under this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to the action.

73111. Each member of the commission, except the ex officio members, shall have an alternate member elected in the same manner as the member.

An alternate member, in the absence of the member for whom he or she is alternate, shall serve in place of the member on the commission and shall have all the rights, privileges, and powers of the member when serving on the commission.

In the event of death, removal, resignation, or disqualification of a member, the alternate shall act as a member on the commission until a qualified successor is elected.

73112. Any vacancy on the commission occurring by the failure of any elected member or elected alternate member to continue in his or her position due to a change in status making him or her ineligible to serve, or due to death, removal, resignation, or disqualification, shall be filled for the unexpired portion of the term by appointment by a majority vote of the commission.

The person so appointed shall fulfill all the requirements set forth in this article for the member or the alternate member whose office he or she is to fill.

The qualification of any person to fill a vacancy on the commission shall be certified by the commission, in writing, to the director. The director shall notify the commission if he or she determines that the person is not qualified.

73113. Any producer member or his or her alternate shall be an individual, partner, or employee of a producer who has a financial interest in producing, or causing to be produced, navel oranges for market.

A producer member or alternate shall meet this requirement during the entire term of office.

73114. Any handler member or his or her alternate shall be an individual, partner, or employee of a handler who has a financial interest in handling navel oranges for market.

A handler member or alternate shall meet this requirement during the entire term of office.

73115. The public member or his or her alternate shall have all the powers, rights, responsibilities, and privileges of any other member on the commission.

The public member shall not have any financial interest in the navel orange industry during the entire term of office.

73116. (a) Except as provided in subdivision (b), the term of office of the elected commissioners is three years from the date of their election and until their successors are qualified and elected.

(b) With respect to the first elected members of the commission, one-third of the producers shall serve for one year, one-third of the producers and one cooperative handler and one independent handler shall serve for two years, and one-third of the producers and one cooperative handler and one independent handler shall serve for three years, with the determination of the term of each member to be made by lot.

(c) An elected commissioner shall not serve more than three consecutive terms.

73117. The public member shall serve a term of three years and shall remain on the commission after the expiration of three years until his or her successor is qualified and appointed.

73118. The commission shall be and is hereby declared and created as a corporate body.

It may sue and be sued, may contract and be contracted with, and has all of the powers of a corporation. It may adopt a corporate seal.

Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

73119. A quorum of the commission is 12 voting commissioners. Except as provided in Sections 73031 and 73353, the commission may act by a vote of a majority of the members present at a meeting at which there is quorum.

73120. The director or his or her representatives shall be notified of, and may attend, each meeting of the commission and any committee meeting of the commission. However, the director or his or her representative or any other ex officio member is not entitled to attend an executive session of the commission called for the purpose of discussing potential or actual litigation involving either the department or the organization represented by the ex officio member, as the case may be.

73121. When a decision of the commission requires the concurrence of the director, he or she shall indicate his or her response, in writing, to the commission within 15 working days from notification of the decision.

73122. No commissioner, including alternates, or a member of a

committee established by the commission who is a nonmember of the commission, shall receive a salary.

Each commissioner and alternate, except ex officio governmental members, and each member of a committee who is a nonmember of the commission, may receive a sum of not to exceed one hundred dollars ($100) per day, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees or on special assignment for the commission, as approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

73123. All funds received by any person from the assessments levied under the authority of this chapter, or otherwise received by the commission, shall be deposited in the banks or other appropriate financial institutions designated by the commission and shall be disbursed by order of the commission through the agent or agents that it designated for that purpose.

The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than one hundred thousand dollars ($100,000).

73124. The state shall not be liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission.

No member of the commission or alternate member, or any employee or agent thereof, is personally liable on the contracts of the commission or responsible individually in any way to any producer, any handler, or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime.

The commission shall accept full responsibility to defend any member of the commission or alternate member, or any employee or agent thereof, against any such claim, except for individual acts of dishonesty or crime.

No commissioner or alternate member shall be held responsible individually for any act or omission of any other member of the commission. The liability of the commissioners are several and not joint, and no commissioner is liable for the default of any other commissioner.

Article 4. Powers and Duties of the Commission

73151. The powers and duties of the commission, subject to Sections 73107 and 73108, shall include, but are not limited to, all of the powers and duties specified in this article.

73152. The commission shall adopt and, from time to time, alter, rescind, modify, and amend in a manner prescribed by the

commission, all proper and necessary bylaws, rules and regulations, and orders for carrying out this chapter, including rules for appeals from any bylaw, rule and regulation, or order of the commission.

73153. The commission shall administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper or advisable effectuation of the purposes of this chapter.

73154. The commission shall appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers that it deems necessary.

The officers have the powers and duties delegated to them by the commission.

73155. (a) The commission shall employ a manager to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, that are necessary to carry out this chapter.

(b) In lieu of an individual as manager, the commission may contract with any private entity or state agency to perform, under the control of the commission, the functions specified in subdivision (a).

(c) If the manager, private entity, or state agency engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager, private entity, or state agency, as the case may be.

73156. The commission shall fix the compensation for all employees of the commission.

73157. The commission may appoint committees which may be composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

73158. The commission shall appoint a committee or committees to deal specifically with budget and advertising issues.

Commission members who pay the full assessment are entitled to a proportionately greater membership, as determined by the commission, on the committee or committees, than members who receive a brand credit as provided in Article 6 (commencing with Section 73251).

73159. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments for that year, that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

73160. The commission shall keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts are

subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers, copies of which shall also be submitted to the Legislature and the department.

In addition, the director may, as he or she determines it to be necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

73161. The commission shall promote the sale of navel oranges by advertising and other promotional means, including cost-sharing advertising, to maintain and expand present markets and create new and larger markets for navel oranges, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of navel oranges.

This authority, however, does not include cost-sharing advertising and cash incentives or discounts with the wholesale or retail trade, as defined by the commission.

73162. The commission shall educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling navel oranges, to make market surveys and analyses, and to present facts to, and negotiate with, private and public agencies on matters which affect the marketing of navel oranges.

73163. The commission may enter into contracts to render service in formulating and conducting plans and programs authorized under this chapter.

73164. The commission may conduct, and contract with others to conduct, marketing research, including the study, analysis, dissemination, and accumulation of information obtained from the research or from other sources.

73165. The commission may publish and distribute, without charge, bulletins or other communications for dissemination of information relating to commission activities and other related matters to producers and handlers.

73166. Pursuant to Section 73251, the commission shall establish an assessment rate to defray operating costs of the commission.

73167. The commission shall prepare an annual budget according to accepted accounting practices.

Except for disbursements to pay the compensation of the employees of the commission, no disbursement of funds shall be made unless the director concurs in the budget.

73168. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized under this chapter, including advertising, promotion, and marketing research.

73169. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for criminal violation of this chapter.

Article 5. Implementation and Voting Procedures

73201. As soon as possible and no later than 60 days after the effective date of this chapter, the director shall establish a list of producers eligible to vote on implementation of this chapter. In establishing this list, the director may require each handler, with respect to those producers whose navel oranges the handler markets, and each county agricultural commissioner, with respect to the producer with bearing acreage within the county, to submit the name and mailing address of, and the volume, if known, shipped by, each producer. The request for this information shall be in writing. The information required by the director shall be filed within 30 days following receipt of the written notice.

Any producer, whose name does not appear upon the director's list of producers affected, may have his or her name included on the list by filing with the director a signed statement identifying himself or herself as a producer. Failure to be on this list does not exempt the producer from paying assessments under this chapter.

Additionally, the director may use other sources of information necessary to secure that information to establish the list.

73202. This chapter, except as necessary to conduct an implementation referendum, does not become operative until the director finds in a referendum conducted by the director, or a person designated by the director, that at least 40 percent of the total number of producers from the list established by the director pursuant to Section 73201, participated, and that he or she finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed a majority of the volume of naval oranges in the preceding season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed 65 percent or more of the volume of navel oranges in the preceding season by all of the producers who voted in the referendum.

73203. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days or more than 60 days in duration, and may prescribe additional procedures as may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period. However, the total referendum period may not exceed 60 days.

73204. Nonreceipt of a ballot does not invalidate a referendum.

73205. If the director finds that a favorable vote has been given as provided in Section 73202, he or she shall certify and give notice of the favorable vote, and that this chapter is operative, to all producers whose names and addresses are on list of the director.

73206. If the director finds that a favorable vote has not been given as provided in Section 73202, he or she shall so certify and

declare this chapter to be inoperative.

73207. Upon certification of the commission, the director shall contact all producers in each district by mail, or call meetings of producers in each district, for the purpose of nominating and electing persons to the commission as provided for in Section 73102.

All producers on the director's list shall be given written notice of the meetings at least 15 days prior to the meeting date.

Any producer with navel orange acreage in more than one district shall vote only in the district in which he or she has the majority of his or her bearing acreage.

Any producer who qualifies as both a cooperative producer and independent producer shall vote in the category of producers, either cooperative or independent, which reflects where the majority of that producer's volume of navel oranges are to be marketed.

73208. To be eligible for election to the commission, a producer nominee shall submit to the director a nomination petition with the signatures of at least 10 eligible producers from the district from which the nominee is seeking election.

73209. The director shall establish a list of handlers and shall, by mail ballot or by calling a meeting of all handlers, conduct the nomination and election of handlers to the commission as provided for in Sections 73103 and 73104.

Handlers shall be given written notice of the meeting at least 15 days prior to the meeting date.

73210. Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to the nomination and election procedures established by the commission with the concurrence of the director.

73211. Prior to the implementation referendum conducted by the director pursuant to Section 73202, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray the expenses in creating the commission, including, but not limited to, preparing the necessary lists of producers and handlers and conducting the implementation referendum.

Any funds left after paying those expenses shall be returned to the proponents of the commission who deposited the funds with the director.

73212. Upon creation of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director which were used in creating the commission, including, but not limited to, preparing the necessary lists of producers and handlers and conducting the implementation referendum.

Article 6. Assessments and Records

73251. (a) The assessment on navel oranges for fresh consumption shall be established by the commission prior to the

beginning of each marketing season and shall not exceed seven cents ($0.07) per carton during the 1983–84 marketing season. Thereafter, the assessment for each marketing season shall not exceed 5 percent of the industry average F.O.B. price of a packed carton reported by the federal Navel Orange Administrative Committee for the preceding three marketing seasons and shall be assessed on a cents-per-carton basis.

(b) If the Navel Orange Administrative Committee ceases to exist, the commission shall determine the average F.O.B. price of a packed carton using information from public and private sources as it deems appropriate.

73252. Any producer who pays an assessment to a cooperative handler or independent handler, and that producer markets his or her navel oranges and conducts an approved navel orange brand advertising program, shall receive a brand credit, thereby allowing the producer to deduct the amount of the credit from any payments otherwise owed to the commission as provided for under this chapter.

73253. Identified commission administrative expenses in an amount not to exceed 10 percent of the assessment owed by any producer prior to deducting the brand credit, and commission institutional expenses in an amount not to exceed 5 percent of the assessment owed by any producer prior to deducting the brand credit, are not entitled to brand credit. In no case shall the brand credit result in any producer paying an assessment to the commission of less than two cents ($0.02) per carton.

For purposes of this section, institutional expenses are defined as those expenses incurred in informing food editors for newspapers, magazines, radio, and television, and informing consumer departments for schools, retailers and other related businesses, regarding produce supply, usage suggestions, and nutritional facts about navel oranges.

73253.5. (a) At least 60 percent of the commission's total expenditures shall be expended for consumer communication.

(b) In order to qualify for brand credit, as provided in subdivision (d) of Section 73254 any person or entity subject to this chapter is required to spend at least 60 percent of its navel orange funds on consumer communications.

73254. Any direct consumer communication purchases qualifies for brand credit when determined by the commission to be in accordance with the following criteria:

(a) As defined by the commission, direct consumer communication purchases shall prominently display, or otherwise state, the words "California Navel Oranges" in the advertisement. A cooperative handler or independent handler who markets navel oranges from California and Arizona and funds its brand advertising program through funds collected from all producers, and who prominently displays or otherwise states the words "California-Arizona Navel Oranges" in the advertisement, is entitled

to brand credit.

(b) Except for the County of Ventura, subdivision (a) does not apply to outdoor media advertising located in counties with more than 1,000 acres of bearing navel oranges in commercial production. In that county, an amount not to exceed 10 percent of a consumer communications expenditure shall be entitled to brand credit.

(c) Direct consumer communications qualifies for brand credit when depicting more than one variety or type of citrus fruit so long as the credit is calculated on a prorated basis giving credit only for that portion of the program which promotes navel oranges in accordance with this section.

(d) To qualify for brand credit, the person or entity applying for brand credit shall submit a plan indicating the general size and scope of the activities for which brand credit will be claimed. However, information regarding the timing and location of the activities shall be considered confidential and need not be submitted. Upon presentation of the plan, the commission shall indicate within 30 days whether the program complies with this chapter and is therefore entitled to brand credit as provided for in this chapter. If all, or any portion, of a program does not comply, as determined by the commission, the commission shall advise the applicant for brand credit, in writing, the reasons for its decision. Any such decision is appealable under Section 73302.

(e) Any producer or handler, on behalf of a producer member, who requests brand credit shall furnish documents and records in support of the request at a time and in a manner prescribed by the commission.

73254.5. Unless otherwise prohibited in this chapter, and in addition to the provisions of Section 73254, a person or entity that is qualified to receive brand credit shall qualify for brand credit for any activity that is also engaged in by the commission.

73254.6. The activities of advertising in trade publications and participating in conferences or conventions are not eligible for application of brand credit.

73255. This chapter does not apply to navel oranges produced only for the producer's home use or where the navel oranges are used only for ornamental purposes. However, the producer shall file an affidavit with the commission stating that his or her navel oranges are not produced for commercial purposes. In any event, no production of navel oranges for fresh shipment is exempt from the assessment under this article when it is marketed.

73256. Every handler shall keep a complete and accurate record of all navel oranges handled by him or her with the name of the producer whose navel oranges were handled. These records shall be in the form, and contain the information, as prescribed by the commission. The records shall be kept by the handler for a period of five years and shall be submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

73257. All proprietary information obtained by the commission or the director from producers or handlers, and all lists of producers or handlers in the possession of the commission or the director, are confidential and shall not be disclosed except when required in a judicial proceeding involving this chapter.

Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other information which the commission requires that gives only totals, but excludes individual handler information, may be disclosed by the commission.

73258. Assessments shall be levied upon the producer. The first handler of navel oranges being assessed shall deduct the assessment from amounts paid by him or her to the producer and shall be a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission.

73259. Every handler is personally liable for the payment of the collected assessments, and failure of the handler to collect the assessment from any producer does not exempt the handler from this liability.

73260. Any assessment which is levied pursuant to in this chapter is a personal debt of the producer so assessed. Failure of a handler to make payment of the collected assessment to the commission does not relieve the producer of this obligation.

73261. Any producer or handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 2 percent interest per month on the unpaid balance.

Article 7. Actions and Penalties

73301. It is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding five hundred dollars ($500), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the shipping of navel oranges or in the wholesale or retail trade of navel oranges, fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom navel oranges have been received and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under this chapter.

73302. The commission shall establish procedures for the purpose of addressing any claims made against the commission or any of its individual members and alternates, and for the purpose of according

individuals, including members and alternates, aggrieved by its actions or determinations an informal hearing before the commission or before a committee of the commission designated for that purpose.

Appeals from decisions of the commission may be made to the director. The determination of the director is subject to judicial review upon petition filed with the appropriate superior court.

73303. The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, with respect to this chapter and the rules and regulations adopted under this chapter.

Except in a proceeding to determine whether the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, upon a favorable verdict for the commission, the commission is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs.

Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

73304. Any action for any penalty or other remedy which is prescribed under this chapter shall be commenced within two years from the date of the alleged violation.

73305. It is not necessary for the commission to allege or prove that an adequate remedy at law does not exist in any action brought under this chapter.

73306. This chapter shall be liberally construed.

If any section, clause, or part of this chapter is for any reason held to be unconstitutional or invalid as applied to any person or as applied under certain circumstances, that decision shall not affect the remaining portions of this chapter or the application of this chapter to any other persons or under any other circumstance.

Article 8. Continuation or Suspension and Termination

73351. Between October 1, 1987, and September 30, 1988, the commission shall conduct a referendum among producers in the manner prescribed in Section 73202 to determine whether the operation of this chapter shall be reapproved and continued in effect.

If the director finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain operative. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the marketing season ending September 30, 1988. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 73355.

No bond or security is required for the referendum.

73352. Following a favorable referendum conducted prior to September 30, 1988, a referendum shall be conducted by the commission every fifth year thereafter between October 1st and September 30, following procedures provided in this article, unless a referendum is conducted as the result of a petition filed pursuant to Section 73353. In that case, the referendum shall be every fifth year following the industry petitioned referendum.

73353. Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended. However, the suspension shall not become effective until the expiration of the current marketing season.

The director shall, upon receipt of this recommendation, or may, after a public hearing to review a petition filed with him or her requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding marketing season, conduct a referendum among the producers to determine if the operation of the commission shall be suspended.

The director shall establish a referendum period, which shall not be less than 10 or more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period.

If at least 40 percent of the total number of producers from the list established by the director participated in the referendum, the director shall continue the operation of this chapter, if he or she finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of continuation, and the producers so voting marketed a majority or more of the volume of navel oranges marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of continuation, and the producers so voting marketed 65 percent or more of the volume of navel oranges marketed in the preceding season by all of the producers who voted in the referendum.

73354. Prior to any referendum resulting from a petition filed in accordance with Section 73353, the petitioners shall deposit with the director an amount that the director deems necessary to defray the expenses of preparing the necessary lists and information and conducting the referendum. Any funds not used shall be returned to the petitioners who deposited the funds with the director.

73355. After the effective date of suspension of the operation of this chapter and of the commission, the operations of the commission shall be concluded and any and all remaining funds held by the commission, collected by assessment and not required to defray the

expenses of concluding and terminating the operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing season.

However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of a pro rata refund to these persons, any such funds remaining and any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate state authorized navel orange or citrus program. If no such program exists, the funds shall be paid into a federally authorized navel orange or citrus program. If no such program exists, the funds shall be paid into the State Treasury as unclaimed trust money.

73356. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all producers affected by the suspension whose names and addresses are on file.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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 ensure that the California Navel Orange Commission becomes operative in time for the 1983 navel orange harvest, it is necessary that this act take effect immediately.

CHAPTER 495

An act to add Section 48.9 to the Civil Code, relating to reports of crime.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 48.9 is added to the Civil Code, to read:

48.9 (a) An organization which sponsors or conducts an anonymous witness program, and its employees and agents, shall not be liable in a civil action for damages resulting from its receipt of

information regarding possible criminal activity or from dissemination of that information to a law enforcement agency.

(b) The immunity provided by this section shall apply to any civil action for damages, including, but not limited to, a defamation action or an action for damages resulting from retaliation against a person who provided information.

(c) The immunity provided by this section shall not apply in any of the following instances:

(1) The information was disseminated with actual knowledge that it was false.

(2) The name of the provider of the information was disseminated without that person's authorization and the dissemination was not required by law.

(3) The name of the provider of information was obtained and the provider was not informed by the organization that the disclosure of his or her name may be required by law.

(d) As used in this section, an "anonymous witness program" means a program whereby information relating to alleged criminal activity is received from persons, whose names are not released without their authorization unless required by law, and disseminated to law enforcement agencies.

CHAPTER 496

An act to amend Sections 1522 and 1524 of the Health and Safety Code, relating to community care facilities and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(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 (e).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct on site supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) 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) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the community care facility. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 273a or 273d of the Penal Code, or has

been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (e). The Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) 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 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. 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.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a community care facility as specified in subdivision (c) 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 or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in paragraph (1) of Section 273a or Section 273d of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

SEC. 2. Section 1524 of the Health and Safety Code is amended to read:

1524. Each new license or special permit issued pursuant to this chapter shall expire 12 months from the date of its issuance.

A renewal license or special permit may be issued for a period not

to exceed two years, providing the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license or special permit shall be filed with the state department pursuant to departmental rules and regulations.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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 this necessity are:

In order to ensure the health and safety of community care residents, it is necessary that this act go into effect immediately.

CHAPTER 497

An act to amend Sections 30254, 30330, 30334, 30503, 30530, 30532, 30600, 30631, 30633, 30634, 30638, 30701, 30702, 30703, 30703.1, 30806, 30900, 30904, 30930, 30960, 30962, 30963, 30964, 30965, 30966, 30967, 30968, and 30970 of, to add Sections 30008 and 30638.2 to, and to repeal Section 30914 of, the Public Utilities Code, relating to transit districts.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 30008 is added to the Public Utilities Code, to read:

30008. "Transit facilities," as used in this part, includes land, buildings, and equipment or any interest therein, whether or not the operation thereof produces revenue, which have as their primary purpose the operation of a rail transit system or the providing of services to the passengers of a rail transit system, but shall not include any land, buildings, or equipment or interest therein which is used primarily for the production of revenue not arising from the operation of rail transit.

SEC. 1.5. Section 30254 of the Public Utilities Code is amended to read:

30254. The board shall determine what transit facilities should be

acquired, constructed, developed, jointly developed, leased, or disposed of, by means including, but not limited to, lease, sale, purchase, option, gift, devise, condemnation, grant, or otherwise.

SEC. 2. Section 30330 of the Public Utilities Code is amended to read:

30330. The board shall appoint and fix the salary of a general manager, who shall have full charge of the acquisition, construction, development, joint development, maintenance, operation, leasing, and disposition of the facilities of the district and also of the administration of the business affairs of the district.

SEC. 3. Section 30334 of the Public Utilities Code is amended to read:

30334. The powers and duties of the general manager are:

(a) To have full charge of the acquisition, construction, development, joint development, maintenance, operation, leasing, and disposition of the facilities of the district.

(b) To have full charge of the administration of the business affairs of the district.

(c) To see that all ordinances of the district are enforced.

(d) To administer the personnel system and collective bargaining agreements adopted by the board and, except for officers appointed by the board, to appoint, discipline, or remove all officers and employees subject to the rules and regulations adopted by the board and the applicable provisions of this part or the terms and conditions contained in any applicable collective bargaining agreement.

(e) To prepare and submit to the board, as soon as practical after the end of each fiscal year, a complete report of the finances and administrative activities of the district for the preceding year.

(f) To keep the board advised as to the needs of the district.

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

(h) To devote the manager's entire time to the business of the district.

(i) To cause to be installed and maintained a system of auditing and accounting which shall completely, and at all times, show the financial condition of the district.

(j) To perform other and additional duties that the board may require.

SEC. 4. Section 30503 of the Public Utilities Code is amended to read:

30503. (a) The district may exercise the right of eminent domain within the boundaries of the district to take any property necessary, incidental, or convenient to the exercise of the powers granted in this part.

(b) No taking or acquisition by the district which would involve the abandonment, removal, relocation, or use of property of a railroad corporation, as defined in Section 230, shall be permitted, unless the Public Utilities Commission, after hearing, finds and determines that the public interest and necessity require the

abandonment, removal, relocation, or use of the property and that the taking or acquisition will not unreasonably impair the ability of the railroad corporation involved to provide safe, adequate, economical, and efficient service.

SEC. 5. Section 30530 of the Public Utilities Code is amended to read:

30530. The district may make contracts and enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and save harmless, and to do all acts necessary for, incidental to, or convenient for the full exercise of the powers granted in this part.

SEC. 6. Section 30532 of the Public Utilities Code is amended to read:

30532. The district may contract with any person, firm, corporation, association, organization, or other entity, public or private, for the acquisition, construction, development, joint development, maintenance, operation, leasing, and disposition of facilities of the district.

SEC. 7. Section 30600 of the Public Utilities Code is amended to read:

30600. The district may take by grant, purchase, gift, devise, or lease, or by condemnation, or otherwise acquire, and hold and enjoy, real and personal property of every kind within or without the district necessary or incidental to the full or convenient exercise of its powers. That property includes, but is not limited to, property necessary for, incidental to, or convenient for joint development and property physically or functionally related to rapid transit service or facilities. The board may lease, sell, jointly develop, or otherwise dispose of any real or personal property within or without the district when, in its judgment, it is for the best interests of the district so to do.

SEC. 8. Section 30631 of the Public Utilities Code is amended to read:

30631. (a) The district may acquire, construct, develop, lease, jointly develop, own, operate, maintain, control, use, jointly use, or dispose of rights-of-way, rail lines, monorails, buslines, stations, platforms, switches, yards, terminals, parking lots, air rights, land rights, development rights, entrances and exits, and any and all other facilities for, incidental to, necessary for, or convenient for rapid transit service, including, but not limited to, facilities and structures physically or functionally related to rapid transit service, within or partly without the district, underground, upon, or above the ground and under, upon, or over public street, highways, bridges, or other public ways or waterways, together with all physical structures necessary for, incidental to, or convenient for the access of persons and vehicles thereto, and may acquire, lease, sell, or otherwise contract with respect to any interest in or rights to the use or joint

use of any or all of the foregoing. However, installations in state freeways are subject to the approval of the Department of Transportation and installations in other state highways are subject to Article 2 (commencing with Section 670) of Chapter 3 of Division 1 of the Streets and Highways Code.

(b) The use of the streets, highways, freeways, and other public places by the district for any of the purposes permitted herein is presumed to be no greater burden on adjoining properties than the uses existing as of August 22, 1964. If facilities, other than state highways or freeways referred to above, (including, but not limited to, streets, highways, pipelines, sewers, water mains, storm drains, poles, communications wires, and electric transmission wires) of another public agency, of the state, or of a private owner are necessarily required to be relocated, replaced, or altered in order for the district to construct or operate its system, or if the construction or operation by the district of its system makes necessary the relocation, replacement, or alteration of any of those facilities of another public agency, of the state, or of a private owner in order to maintain the functioning of the facilities at their previous level of service, the facilities shall be relocated, replaced, or altered with reasonable promptness by the respective public corporation, state, or private owner and the district shall, by prior agreement, reimburse the public corporation, state, or private owner for the actual cost necessarily incurred in the relocation, replacement, or alteration.

(c) The district may enter into an agreement with any city or county having jurisdiction over the street or highway involved, and, as may be provided in the agreement, may close any city street or county highway at or near the point of its interception with any district facility or may make provision for carrying the city street or county highway over or under or to a connection with the district facility and may do any and all work on the city street or county highway as is necessary therefor. No city street or county highway shall be closed, either directly or indirectly, by the construction of district facilities except pursuant to such an agreement or while temporarily necessary during the construction of district facilities if the district has first obtained a temporary street or highway closing permit.

SEC. 9. Section 30633 of the Public Utilities Code is amended to read:

30633. The district may construct, acquire, develop, jointly develop, maintain, operate, lease, and dispose of works and facilities in, under, upon, over, across, or along any road, street, alley, avenue, or public highway or any stream, bay, watercourse, or other public ways or waterways, or over any of the lands which are the property of the state, including, but not limited to, facilities and structures physically or functionally related to rapid transit service, to the same extent that those rights and privileges relating to public ways or waterways are granted to municipalities within the state for those uses or any other use or uses, including, but not limited to, those uses

specified in Article 3 (commencing with Section 10101) of Chapter 1 of Division 5.

SEC. 10. Section 30634 of the Public Utilities Code is amended to read:

30634. (a) The district may enter into agreements for the joint use or joint development of any property or rights by the district and any city, public agency, or public utility operating transit facilities, or any other person, firm, corporation, association, organization, or other entity, public or private, either, in whole or in part, within or without the district, for the joint use or development of any property of the district or of the city, public agency, public utility, person, firm, corporation, association, organization, or other entity, public or private, or the establishment of through routes, joint fares, station cost-sharing, connector fees, or land, air, or development rights sales or leasing, transfer of passengers, pooling arrangements, or for any other purpose necessary for, incidental to, or convenient for the full exercise of the powers granted in this part. As to any service which the district is authorized to perform pursuant to this part, the district may contract for the performance of the service by any city, county, or public utility operating transit facilities, the territory of which is, in whole or in part, within the district.

(b) "Joint development" includes, but is not limited to, agreements with any person, firm, corporation, association, organization, or other entity, public or private, to develop or to engage in the planning, financing, or construction of district facilities or development projects adjacent, or physically or functionally related, to district facilities.

(c) Notwithstanding any other provision of this part, no joint development of nontransit facilities may be accomplished without the prior approval of the legislative body of the local jurisdiction within which the development is to take place.

SEC. 11. Section 30638 of the Public Utilities Code is amended to read:

30638. (a) The rates, fees, and charges for service or rights furnished, leased, or otherwise transferred pursuant to this part, including, but not limited to, station cost-sharing, connector fees, and land or air rights sales or leasing, shall be fixed by a vote of two-thirds of all of the members of the board and shall be reasonable. Insofar as practicable, the rates, fees, and charges shall be determined and fixed so as to result in revenue which will make the transit system self-supporting and shall be sufficient to accomplish all of the following:

(1) Pay the operating expenses of the district.

(2) Provide for repairs, maintenance, and depreciation of works owned or operated by the district.

(3) Provide for the purchase, lease, or acquisition of equipment under Article 3 (commencing with Section 30940) of Chapter 7.

(4) Provide for the payment of the interest and principal of the bonded debt, subject to the applicable provisions of this part

authorizing the issuance and retirement of bonds.

(5) Provide for the payment of contracts, agreements, leases, equipment, trust certificates, and other legal liabilities assumed under Chapter 8 (commencing with Section 31000).

(6) Provide an amount equal to 3 percent or more of gross revenue for funding programs required by Section 30638.1.

(b) After making any current allocations of funds required for the purposes prescribed by pargraphs (1) to (5), inclusive, of subdivision (a) and by the terms of any indebtedness incurred under Article 1 (commencing with Section 30900), Article 2 (commencing with Section 30930), and Article 5 (commencing with Section 30960) of Chapter 7, the board may provide funds for any purpose the board deems necessary and desirable to carry out the purposes of this part.

(c) This section does not constitute a covenant to the holders of any bonds or other evidences of indebtedness of the district unless the ordinance, resolution, or indenture providing for the issuance thereof so provides.

SEC. 11.5. Section 30638.2 is added to the Public Utilities Code, to read:

30638.2. Notwithstanding Section 30638, all net income from fees, charges, rents, profits, or other net income arising from joint development of the property of the district which was acquired exclusively for the rail rapid transit system shall be used only for the following purposes:

(a) Pay the capital and operating expenses of the rail rapid transit system.

(b) Provide for the payment of interest and principal of the bonded debt for the rail rapid transit system, subject to the applicable provisions of this part authorizing the issuance and retirement of bonds.

(c) Provide for the payment of contracts, agreements, leases, equipment, and other legal liabilities assumed under Chapter 8 (commencing with Section 31000).

As used in this section, "operating expenses" includes the expenses of operation, maintenance, and repair of all personal or real property physically or functionally related to rail rapid transit services or facilities.

SEC. 12. Section 30701 of the Public Utilities Code is amended to read:

30701. The district may accept contributions or loans from the United States, or any department, instrumentality, or agency thereof, for the purpose of financing the acquisition, construction, development, joint development, maintenance, and operation of transit facilities, and may enter into contracts and cooperate with, and accept cooperation from, the United States, or any department, instrumentality, or agency thereof, in the acquisition, construction, development, joint development, maintenance, and operation of any transit facilities in accordance with any legislation which Congress may have adopted or may hereafter adopt, under which aid,

assistance, and cooperation may be furnished by the United States in the acquisition, construction, development, joint development, maintenance, and operation or in financing the acquisition, construction, development, joint development, maintenance, and operation of any transit facilities. The district may do any and all things necessary, within the limitations imposed by this part or by any indebtedness created pursuant to this part, in order to avail itself of the aid, assistance, and cooperation under any federal legislation now or hereafter enacted. Any bonds, notes, equipment trust certificates, or like evidences of indebtedness issued for a purpose authorized by this section shall be issued in accordance with Chapter 7 (commencing with Section 30900).

SEC. 13. Section 30702 of the Public Utilities Code is amended to read:

30702. The district may cooperate with and enter into agreements with the State of California or any public agency for the acquisition, construction, development, joint development, completion, maintenance, operation, or repair, joint or otherwise, and in whole or in part, of transit facilities. In connection with any such cooperation or contract, the state or any public agency may make public contributions to the district as in the judgment of the Legislature, or the governing board of the agency, are necessary or proper for its undertaking, and the district may reimburse the state or public agency for any advance or contribution from the proceeds of the sale of bonds or any other funds available to the district. The state or any public agency may also authorize, aid, and assist the district to carry out any activity which the state or public agency is authorized to perform and carry out on its own behalf. Any bonds, notes, equipment trust certificates, or like evidences of indebtedness issued for a purpose authorized by this section shall be issued in accordance with Chapter 7 (commencing with Section 30900).

SEC. 14. Section 30703 of the Public Utilities Code is amended to read:

30703. The district may accept contributions or loans from the State of California or any public agency, for the purpose of planning, acquiring, constructing, developing, jointly developing, operating, or maintaining a rapid transit system, including, without limitation, the payment of principal and interest and providing security funds for bonds or notes of the district issued for any of those purposes, and may enter into contracts and cooperate with, and accept cooperation from, the state or any public agency therefor. The district is a public rapid transit district, rapid transit district, or any other type of public agency which is authorized by any other law to receive those contributions, loans, or cooperation, including, without limitation, Sections 11005.1 and 11104 of the Revenue and Taxation Code. The district may do any and all things necessary, within the limitations imposed by this part or by any indebtedness created pursuant to this part, in order to avail itself of those contributions, loans, or cooperation.

SEC. 15. Section 30703.1 of the Public Utilities Code is amended to read:

30703.1. The district may make an irrevocable pledge or contract in connection with the payment of the principal and the interest, sinking or reserve funds, or other obligation of any bonded indebtedness created under this part of any transit funds or other continuing or annual appropriations, contributions, grants, or loans by the United States or any department, instrumentality, or agency thereof, the State of California, a county, a city, or any other public agency, or any other individual or entity, public or private, pursuant to law or this article. The irrevocability of any pledge or contract hereunder shall be binding on the district to the full extent authorized or permitted by the laws governing or applicable to the source of those transit funds, appropriations, contributions, grants, or loans, or by this article. This article shall include, but not be limited to, appropriations or other funds authorized or allocated under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and Chapter 155 of the Statutes of 1966, First Extraordinary Session, or as they may hereafter be amended.

No transit funds, appropriations, contributions, grants, or loans received by the district shall be pledged or by contract be obligated to the payment of any district bonded indebtedness or the principal, interest, sinking or reserve fund payments of that indebtedness unless the pledge or contract is authorized or permitted by the laws governing or applicable to those transit funds, appropriations, contributions, grants, or loans including any official action that may be required of any federal, state, local, or public agency, or any other individual or entity, public or private, and, in the case of incurring indebtedness by the issuance of bonds, the proposition has been approved by 60 percent of those qualified electors of the district voting on the proposition to create the indebtedness at an election called for that purpose pursuant to this part. A vote in favor of the issuance of the bonds shall authorize the use of those transit funds, appropriations, contributions, grants, or loans for those purposes and no other or further elections need be held to authorize the board to collect or provide for the collection of and to make that use of those funds or moneys. The authority to use those funds or moneys shall continue until the bonds and the interest thereon are paid or until a fund sufficient for the payment thereof or of the redemption thereof prior to maturity, with any premiums required therefor, has been created and set aside for that purpose.

"Transit funds," as used in this part, means any funds or moneys payable to or received by the district from any California transit funds or any funds which the United States or any department, instrumentality, or agency thereof, the State of California, a county, a city, or any other public agency, or any other individual or entity, public or private, has or is authorized by any law or by official action thereunder to appropriate, contribute, grant, or loan to the district to be used for the payment of any indebtedness, including, but not

limited to, any bonded indebtedness of the district in accordance with this part or any other law.

SEC. 16. Section 30806 of the Public Utilities Code is amended to read:

30806. The taxes authorized by this article and required to be levied for bonds of the district and bonds for improvement districts therein under Sections 30802, 30803, and 30804 shall be levied to the extent revenues, assessments, or taxes are not available from other sources to meet these obligations or any of them; and no taxes shall be levied for other district purposes unless the board authorizes the tax by ordinance adopted by a vote of two-thirds of all members of the board and the ordinance is approved by a majority of the votes cast by the qualified electors of the district voting on the ordinance at an election called for that purpose. The board, in the ordinance, shall provide the maximum tax rate or rates for the other district purposes specified in the ordinance and may provide for limitations upon the time or times which the additionally authorized taxes shall be in effect. Any maximum tax rate adopted pursuant to this section may be increased when authorized by the board by ordinance adopted in the manner and by the vote stated in this section and approved by a majority of the votes cast by the qualified electors of the district voting on the ordinance at an election called for that purpose.

SEC. 17. Section 30900 of the Public Utilities Code is amended to read:

30900. Whenever the board deems it necessary for the district to incur a bonded indebtedness for the acquisition, construction, development, joint development, maintenance, operation, or repair of any or all improvements, works, property or facilities, authorized by this part or necessary for, incidental to, or convenient for the carrying out of the powers of the district, or for any other purpose authorized by this part, including, without limitation, the refunding referred to in Chapter 8 (commencing with Section 31000), it shall, by ordinance, adopted by a vote of two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the district. The ordinance shall state all of the following:

(a) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs necessary or convenient for, incidental to, or connected with the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant, and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(b) The estimated cost of accomplishing those purposes.

(c) The amount of the principal of the indebtedness.

(d) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 50 years from the date thereof or the date of each series thereof.

(e) The maximum rate of interest to be paid, which shall not exceed the maximum rate allowed by law.

(f) The proposition to be submitted to the voters, which may include one or more purposes.

(g) The date of the election.

(h) The manner of holding the election and the procedure for voting for or against the measure.

(i) The ordinance may also contain any other matters authorized by this part orany other law.

SEC. 18. Section 30904 of the Public Utilities Code is amended to read:

30904. The bonds shall bear interest at a rate or rates not exceeding the maximum rate allowed by law, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not exceeding one year as determined by the board. In the resolution or resolutions providing for the issuance of the bonds, the board may also provide for call and redemption of the bonds prior to maturity at the times and prices and upon any other terms as it may specify. However, no bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon. The denomination or denominations of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one thousand dollars ($1,000). The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the district or at any other place or places as may be designated, or at either place or places at the option of the holders of the bonds. The bonds shall be dated, numbered consecutively, signed by the president and treasurer, and countersigned by the secretary, and the official seal of the district shall be attached. The interest coupons of the bonds shall be signed by the treasurer. All the signatures, countersignatures, and seal may be printed, lithographed, or mechanically reproduced, except that one of the signatures or countersignatures on the bonds shall be manually affixed. If any officer whose signature or countersignature appears on bonds or coupons ceases to be that officer before the delivery of the bonds, his or her signature is as effective as if the officer had remained in office.

SEC. 19. Section 30914 of the Public Utilities Code is repealed.

SEC. 20. Section 30930 of the Public Utilities Code is amended to read:

30930. Whenever the board deems it necessary for the district to incur a revenue bonded indebtedness for the acquisition, construction, development, joint development, operation, maintenance, completion, or repair of any or all improvements, works, property, or facilities authorized by this part or necessary or

convenient for the carrying out of the powers of the district, or for any other purpose authorized by this part, including, without limitation, the refunding referred to in Chapter 8 (commencing with Section 31000), the board shall provide for the issuance of the revenue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), as it now exists or may hereafter be amended; except that, (a) if the board provides for the issuance of the revenue bonds by ordinance adopted by a vote of two-thirds of all the members of the board, which ordinance shall be subject to referendum, and (b) no election is required by Section 30932, no election need be called or held for the purpose of authorizing the issuance of the revenue bonds.

Revenue bonds may include one or more purposes; and the purposes for which revenue bonds may be issued may include, without limitation, all costs and estimated costs incidental to, or connected with, the accomplishment of that purpose, or purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant, and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

SEC. 21. Section 30960 of the Public Utilities Code is amended to read:

30960. Whenever the board deems it necessary for the district to incur a bonded indebtedness for the acquisition, construction, development, joint development, completion, operation, maintenance, or repair of any or all improvements, works, property, or facilities authorized by this part or necessary for, incidental to, or convenient for carrying out the powers of the district, or for any other purpose authorized by this part and to provide for the bonded indebtedness to be payable from taxes levied upon less than all of the district, it shall, by resolution adopted by a vote of two-thirds of all members of the board, so declare and state all of the following:

(a) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant, and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(b) The estimated cost of accomplishing those purposes and the amount of the principal of the indebtedness to be incurred.

(c) That the board intends to form an improvement district or districts of a portion or portions of the district which, in the opinion of the board, will be benefited, the exterior boundaries of which

portion or portions are set forth on a map on file with the secretary of the district, which map shall govern for all details as to the extent of the proposed improvement district or districts, and to call an election in the proposed improvement district or districts on a date to be fixed for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the district for the improvement district or districts.

(d) That taxes for the payment of the bonds and the interest thereon shall be levied exclusively upon the taxable property in the appropriate improvement district.

(e) The extent to which, if at all, all or a portion of the revenues of the district are to be used as provided in Section 30803 to pay the principal of, interest on, and sinking fund payments for the bonds, including the establishment and maintenance of any reserve fund therefor.

(f) That a general description of the proposed improvement, together with a map showing the exterior boundaries of the proposed improvement district or districts with relation to the territory immediately contiguous thereto and to the proposed improvement, is on file with the secretary of the district and is available for inspection by any person or persons interested.

(g) The time and place for a hearing by the board on the questions of the formation of the proposed improvement district or districts, the extent thereof, the proposed improvement, the estimated cost, and the amount of debt to be incurred.

(h) That, at the time and place specified in the resolution, any person interested, including all persons owning property in the district or in the proposed improvement district or districts, will be heard.

SEC. 22. Section 30962 of the Public Utilities Code is amended to read:

30962. At the time and place so fixed, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing, any person interested, including any person owning property within the district or within the proposed improvement district or districts, may appear and present any matters material to the questions set forth in the resolution declaring the necessity.

SEC. 23. Section 30963 of the Public Utilities Code is amended to read:

30963. The board may change the purposes for which the proposed debt is to be incurred, or the estimated cost, or the amount of bonded debt to be incurred, or the boundaries of the proposed improvement district or districts, or one or all of those matters. However, the board shall not change the boundaries so as to include any territory which will not, in its judgment, be benefited by the improvement.

SEC. 24. Section 30964 of the Public Utilities Code is amended to read:

30964. The purposes, estimated cost, amount of bonded debt, or boundaries shall not be changed by the board except after notice of its intention to do so, given by publication pursuant to Section 6061 of the Government Code in at least one newspaper published in the district. The notice shall state the changed purposes and the estimated cost and debt proposed and that the exterior boundaries as proposed to be changed are set forth on a map on file with the secretary of the district, which map shall govern for all details as to the extent of the proposed improvement district or districts, and specify the time and place for hearing on the change or changes, which time shall be at least 10 days after the publication of the notice.

SEC. 25. Section 30965 of the Public Utilities Code is amended to read:

30965. At the time and place so fixed, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing, any person interested, including any person owning property within the district or the proposed improvement district or districts, may appear and present any matters material to the changes stated in the notice.

SEC. 26. Section 30966 of the Public Utilities Code is amended to read:

30966. At the conclusion of the hearing, the board shall, by resolution, determine whether it is deemed necessary to incur the bonded indebtedness, and, if so, the resolution shall also state the purposes for which the proposed debt is to be incurred, the estimated cost of accomplishing those purposes, the amount of the proposed debt, that the exterior boundaries of the portion or portions of the district which will be benefited are set forth on a map on file with the secretary of the district, which map shall govern for all details as to the extent of the improvement district or districts, and that each portion or portions of the district set forth on the map shall thereupon constitute and be known as "Improvement District No. _____ of the Southern California Rapid Transit District," and the determinations made in the resolution shall be final and conclusive.

SEC. 27. Section 30967 of the Public Utilities Code is amended to read:

30967. After the formation of the improvement district or districts within the district pursuant to this article, all proceedings for the authorization and issuance of bonds of the district for the improvement district or districts shall be limited and shall apply only to the improvement district or districts; and taxes for the payment of those bonds and the interest thereon shall be levied exclusively upon the taxable property in the improvement district or districts; and the revenues of the district shall be used only to the extent set forth in the resolution declaring the necessity.

SEC. 28. Section 30968 of the Public Utilities Code is amended to read:

30968. After the board has made its determination of the matters required to be determined by resolution pursuant to Section 30966,

and if the board deems it necessary to incur the bonded indebtedness, the board shall, by a further resolution, call a special election in the improvement district or districts for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the district for the improvement district or districts. The resolution shall state all of the following:

(a) That the board deems it necessary to incur the bonded indebtedness.

(b) The purposes for which the bonded indebtedness will be incurred.

(c) The estimated cost of accomplishing those purposes.

(d) The amount of the principal of the indebtedness to be incurred.

(e) The improvement district or districts to be benefited by those indebtedness, as set forth in the resolution making determinations, and that a map showing the exterior boundaries of the improvement district or districts is on file with the secretary of the district, which map shall govern for all details as to the extent of the improvement district or districts.

(f) That taxes for the payment of those bonds and the interest thereon shall be levied exclusively upon the taxable property in the improvement district or districts; and that revenues of the district shall be used only to the extent set forth in the resolution declaring the necessity.

(g) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 50 years from the date thereof or the date of each series thereof.

(h) The maximum rate of interest to be paid, which shall not exceed the maximum rate allowed by law.

(i) The proposition to be submitted to the voters which may include one or more purposes.

(j) The date of the election.

(k) The manner of holding the election and the procedure for voting for and against the measure.

SEC. 29. Section 30970 of the Public Utilities Code is amended to read:

30970. Any action or proceeding, wherein the validity of the formation of the improvement district or districts or of any bonds or of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within three months from the date of the election; otherwise, the bonds and all proceedings in relation thereto, including the formation of the improvement district or districts, is valid and in every respect legal and incontestable.

CHAPTER 498

An act to amend Sections 1296, 2557, 8152, 8153, 17717.5, 17722, 17749, 17780, 35031, 39363, 41972, 44251, 44662, 44663, 44664, 44682, 44683, 44684, 44685, 44687, 44688, 44689, 44882, 44884, 44901, 44932, 44933, 44934, 44935, 44936, 44937, 44938, 44943, 44944, 44948, 44949, 44955, 44956, 44957, 46142, 46144, 46147, 48430, 49067, 52302.5, 52853, 52858, 54060, 56723, 56782, 60240, 60246, 60602, 60603, 60604.5, and 62000 of, to amend the heading of Article 3 (commencing with Section 44681) of Chapter 3.1 of Part 25 of, to amend and renumber Section 48438 of, to amend and repeal Sections 42241.4, 44255, and 51225 of, to add Sections 8154, 14002.1, 14002.2, 17717.7, 17751, 33308.5, 35160.5, 41301.3, 41868, 42238.9, 42250, 44227.5, 44277, 44278, 44279, 44830.3, 44885.5, 44948.3, 44948.5, 44955.5, 44956.5, 45023.4, 45100.5, 45104.5, 45108.5, 45108.7, 45256.5, 48260.5, 48431.6, 48431.7, 48438, 48440, 51225.3, 51225.4, 51226, 51228, 52048, 52049, 52304.1, 52333, 54029, 56774.5, 60247, 60603.5, 62048, 60249, 60604.7, and 76006 to, to add and repeal Sections 42238.1, 42238.2, 42238.4, 42238.7, and 42238.8 of, to add Chapter 11 (commencing with Section 11000) to Part 7 of, Article 7 (commencing with Section 33600) to Chapter 4 of Part 20 of, Article 4.5 (commencing with Section 42290) to Chapter 7 of Part 24 of, Article 7.5 (commencing with Section 44325) and Article 9 (commencing with Section 44360) to Chapter 2 of Part 25 of, Chapter 3.15 (commencing with Section 44689.5) to Part 25 of, Chapter 3.3 (commencing with Section 44700) to Part 25 of, Article 8 (commencing with Section 46200) to Chapter 2 of Part 26 of, Article 7 (commencing with Section 48070) to Chapter 1 of Part 27 of, Article 2.3 (commencing with Section 48643) to Chapter 4 of Part 27 of, Article 7.5 (commencing with Section 52460) to Chapter 9 of Part 28 of, Article 2.5 (commencing with Section 54650) to Chapter 9 of Part 29 of, Chapter 6 (commencing with Section 58800) to Part 31 of, Article 8 (commencing with Section 60700) to Chapter 5 of Part 33 of, Part 35 (commencing with Section 63000) to, and Article 6 (commencing with Section 69600) to Chapter 2 of Part 42 of, to add and repeal Chapter 3.4 (commencing with Section 44750) of Part 25 of, to repeal Sections 1275, 42237, 42239.1, 42239.5, and 42239.8 of, to repeal Chapter 2 (commencing with Section 44200) of Part 25 of, and Article 8 (commencing with Section 56770) of Chapter 7 of Part 30 of, to repeal and add Sections 42238, 42238.5, 42238.6, 42239, 46145, and 52616 of, to repeal and add Article 4 (commencing with Section 42280) of Chapter 7 of, and Article 10 (commencing with Section 41850) of Chapter 8 of, Part 24 of, Article 4 (commencing with Section 44490) of Chapter 3 of, and Article 2 (commencing with Section 44680) to Chapter 3.1 of, Part 25 of, and Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of, the Education Code, to amend Sections 3543.2, 3543.4, 35040, and 66493 of the Government Code, to amend Sections 72, 17024.5, 17048, 17053.7, 17063, 17137, 17932, 18033, 18681.1, 18684, 18685, 18685.07, 18699, 18802, 18934, 19062.11, 19405, 19414, 23701d, 23701q, 24305,

24307, 24330, 24359, 24373.5, 24455, 24457, 24465, 24466, 24483.5, 24488, 24501, 24504, 24511, 24514, 24516, 24535, 24562, 24602, 24603, 24667, 25934, 25935, 25961, 25962, and 26080 of, to add Sections 100.55, 17141, 17206, 17210, 17286, 17514, 18586.7, 18654, 18681.2, 18684.4, 18684.6, 18803.5, 18836, 18935, 19415, 19416, 19417, 19418, 19419, 19420, 24272.5, 24344.5, 24373.5, 24518, 24903, 25663d, 25934.4, 25934.6, 25957, 25957.1, 25957.2, 25959.3, 25965, and 26491 to, to add Chapter 3.5 (commencing with Section 75) to Part 0.5 of Part 2 of Division 1 of, and to repeal Sections 18693 and 25904 of, the Revenue and Taxation Code, and to amend Sections 328, 650, and 13051 of, and to add Sections 13004.1 and 13020.5 to, the Unemployment Insurance Code, relating to education, including the financing thereof, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

I object to the following appropriations and language of appropriation contained in Senate Bill No. 813:

SEC. 8.3.—Adding Section 14002.1 to the Education Code. I am deleting the following language contained in Section 14002.1 of the Education Code. The deleted language is shown in strike out.

"Sec. 8.3. Section 14002.1 is added to the Education Code, to read:

14002.1. In addition to all other funds appropriated to Section A of the State School Fund, the Controller shall for the 1983–84 fiscal year ~~and each fiscal year thereafter~~, transfer from the General Fund to Section A of the State School Fund for apportionment ~~during each fiscal year~~ such additional amounts as are necessary to meet actual computed apportionments as certified by the Superintendent of Public Instruction for the purposes set forth in Section 41301.3; provided that the total of such additional amounts transferred shall not exceed one hundred thirteen dollars and sixy-nine cents ($113.69) per pupil in 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 as certified by the Superintendent of Public Instruction."

The section as amended above will make the transfer to the State School Fund and the appropriation of $113.69 per pupil in average daily attendance effective in the 1983–84 fiscal year only.

Sec. 8.5.—Adding Section 14002.2 to the Education Code. I eliminate this section. This section would have added Education Code Section 14002.2 making a General Fund continuing appropriation of $119.45 per pupil in average daily attendance for the 1984–85 fiscal year and each fiscal year thereafter

Sec. 18.5.—Adding Section 41301.3 to the Education Code. I eliminate the language contained in Subsection (c) of Section 41301.3 of the Education Code. The following language is deleted:

"(c) The amount transferred to Section A of the State School Fund pursuant to Sections 14002, 14002.1, and 14002.2, and any other appropriation, in the 1984–85 fiscal year and each fiscal year thereafter shall be expended as needed to first fund the schedule in Section 41301 and any remaining funds shall be expended according to the following schedule, but not to exceed the amounts allocated for each item according to the schedule. The amounts in the schedule are expressed as amounts per pupil in 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 as certified by the Superintendent of Public Instruction:

(1) District revenue limits pursuant to Section 42238, except for the portion of the revenue limits attributable to the operation of Section 42238.2 as it read in the 1983–84 fiscal year, fifty-eight dollars and three cents ($58.03)

(2) Maintenance of cost-of-living adjustments granted for special education programs and other categorical education programs in prior fiscal years, twenty-three dollars and forty-four cents ($23.44).

(3) Instructional Materials Fund, nine dollars and nineteen cents ($9.19).

(4) Extended School Year pursuant to Section 46200, sixty dollars and thirty-nine

cents ($60.39).

(5) Minimum teacher salaries pursuant to Section 45023.4, five dollars and eighty cents ($5.80).

(6) Grants to teachers pursuant to Section 44700, four dollars and thirty-five cents ($4.35).

(7) Teacher mentor program pursuant to Section 44490, seven dollars and twenty-five cents ($7.25).

(8) Summer school programs pursuant to Section 42238.6, nine dollars and sixty-six cents ($9.66).

(9) Tenth grade counseling pursuant to Section 48431.7, one dollar and forty-five cents ($1.45).

(10) School Improvement Program pursuant to Section 52048, two dollars and forty-one cents ($2.41).

(11) Necessary small school revenue limits pursuant to Section 42280, seventy-two cents ($0.72).

(12) Urban Impact Aid for nonunified school districts pursuant to Section 54060, two dollars and seventeen cents ($2.17).

(13) County superintendents of schools revenue limits pursuant to Section 2558, one dollar and eighty-six cents ($1.86).

(14) Year round school operation incentive pursuant to Section 42250, one dollar and eighty-one cents ($1.81).

(15) Teacher Education and Computer Centers pursuant to Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25, one dollar and twenty-one cents ($1.21).

(16) Adult education revenue limits pursuant to Section 52616, two dollars and eighty-three cents ($2.83).

(17) Opportunity schools pursuant to Section 48643, ninety-seven cents ($0.97).

(18) Academic partnership program pursuant to Section 11000, twenty-four cents ($0.24).

(19) Specialized high schools pursuant to Section 58800, forty-eight cents ($0.48).

(20) Administrator training pursuant to Section 44681, twelve cents ($0.12).

(21) Education performance incentive pursuant to Section 54680, one dollar and sixty-nine cents ($1.69).

(22) Funds to districts which lost Public Law 81-874 funds pursuant to Section 42238.3 as proposed by Senate Bill 391, if enacted, six dollars and thirty-five cents ($6.35).

(23) For the portion of district revenue limits attributable to the operation of Section 42238.2, as it read in the 1983–84 fiscal year, thirty dollars and seventy-two cents ($30.72)."

This section provides statutory allocations for the appropriations made in Education Code Sections 14002.1 and 14002.2. This section also specifies which programs will not be funded if total appropriations are insufficient to fund all of the programs specified in this and other statutory allocations The deleted language provided the statutory allocation for the 1984–85 fiscal year and each fiscal year thereafter.

I have eliminated the 1984–85 statutory appropriations and allocations contained in SB 813. By establishing statutory appropriations for the cost-of-living increases and the proposed new programs, SB 813 would allow future K-12 funding levels and priorities to be established outside of the normal budgetary review process. Elimination of the 1984–85 statutory appropriations will ensure that the appropriate amount of funding for K-12 education programs in 1984–85 and future years is reviewed on an annual basis.

With the above deletions, I approve Senate Bill No. 813.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. This act shall be known and may be cited as the Hughes-Hart Educational Reform Act of 1983.

SEC. 2. The Legislature declares its intent to encourage continued reform and improvement of California's elementary and secondary schools through a series of reforms, incentives, and strategies which can provide for the educational, personal, and career needs of every pupil. The Legislature believes that our schools

should:

(a) Provide a variety of instructional styles and classroom settings which accommodate the differing ways that research has shown children learn.

(b) Maintain orderly and efficient school campuses which encourage positive attitudes among students and high morale and high quality teaching from teachers.

(c) Ensure that the specialized needs of identified groups of students are met by the effective use of categorical aid funding.

(d) Provide appropriate and meaningful instruction to meet the variety of future and career goals of students.

(e) Assure that pupils achieve academic proficiency in the essential areas of skill and knowledge.

(f) Identify and respond to the individual educational needs of pupils, each of whom is a unique human being who can ultimately become a responsible and contributing member of society.

(g) Develop each pupil's sense of respect of self and others, personal and social responsibility, and critical thinking.

(h) Involve parents and community members in a broad range of activities at each school, recognizing the vital role parental attitudes and values have in their children's education.

SEC. 3. Section 1275 of the Education Code is repealed.

SEC. 4. Section 1296 of the Education Code is amended to read:

1296. (a) If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 or more, each person who, after being employed for three complete consecutive school years by the superintendent in a teaching position in those schools or classes requiring certification qualifications and whose salary is paid from the county school service fund, is reelected for the next succeeding school year to such a position in those schools or classes, shall be classified as and become a permanent employee of the county superintendent of schools.

Such an employee shall have the same rights and duties as employees of school districts to which Section 44882 applies.

This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

(b) If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 or more, each person who, after being employed for two complete consecutive school years by the superintendent in a teaching position in those schools or classes requiring certification qualifications and whose salary is paid from the county school service fund, is reelected for the next succeeding school year to such a position in those schools or classes, shall be classified as and become a permanent employee of the county superintendent of schools.

The county superintendent of schools shall notify the employee, on or before March 15 of the employee's second complete consecutive year of employment by the superintendent in a teaching position in schools or classes maintained by the superintendent requiring

certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position in those schools. In the event that the county superintendent does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

Such an employee shall have the same rights and duties as employees of school districts to which Section 44882 applies.

This subdivision shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

SEC. 4.5. Section 2557 of the Education Code is amended to read:

2557. (a) For the 1979–80 fiscal year, the inflation allowance shall be the same as the percentage increase applied to the revenue limits of school districts for the 1979–80 fiscal year pursuant to paragraph (1) of subdivision (b) of Section 42237.

(b) For the 1980–81 fiscal year and each fiscal year thereafter, the prior year revenue limits per average daily attendance, class, or instructional hour, determined in Section 2550, and the prior year total revenue limits determined in Sections 2551 and 2552, shall be increased by a percentage equal to the percentage increase applied to the statewide average revenue limit for unified school districts for the then current fiscal year, except for the 1981–82 fiscal year, the increase shall not exceed 7.2 percent, and for the 1983–84 fiscal year, the increase shall be 8 percent. The resulting amounts shall then be multiplied by the estimated number of classes, units of average daily attendance, instructional hour, or pupils receiving special education services, as appropriate for the then current fiscal year.

(c) Notwithstanding subdivision (b), the inflation allowance for the 1982–83 fiscal year shall be reduced by one-fourth of the amount otherwise prescribed by subdivision (b), as specified in subdivision (m) of Section 42238, except to the extent a greater allowance may be funded by funds provided by the Budget Act of 1982. The inflation allowance for each year following the 1982–83 fiscal year shall be computed as if any reduction made pursuant to this subdivision had not been made.

SEC. 5. Section 8152 of the Education Code is amended to read:

8152. Each 50-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of three dollars and twenty-five cents ($3.25) per hour.

SEC. 6. Section 8153 of the Education Code is amended to read:

8153. The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall allow three dollars and twenty-five cents ($3.25) for each hour of teaching time, as defined in Section 8152, devoted to each indentured apprentice in classes of related and supplemental instruction provided by high schools, unified school districts, regional

occupation centers or programs, community colleges, or adult schools.

SEC. 7. Section 8154 is added to the Education Code, to read:

8154. The Superintendent of Public Instruction and the Chancellor of the California Community Colleges, in consultation with the Division of Apprenticeship Standards, shall annually review the amount of state funding necessary to provide the reimbursements specified in Sections 8152 and 8153, and shall include an estimate of required funds in their budgets for each fiscal year.

If the amounts appropriated in any fiscal year are insufficient to provide full reimbursement, the hourly rate specified in Section 8153 shall be reduced on a pro rata basis so that the entire appropriation is allocated. The Superintendent of Public Instruction and the Chancellor of the California Community Colleges may mutually agree to the transfer of moneys from one section of the State School Fund to the other in an amount necessary to provide for full reimbursement, or equal funding on a pro rata basis, of the rate specified in Section 8153 for school and community college districts. The amount upon which the superintendent and chancellor agree is reappropriated from the appropriate section of the State School Fund to the other section of the State School Fund for the purpose specified in the agreement.

If the amount appropriated is in excess of the amounts needed for full reimbursement, any excess shall be allocated to school and community college districts to be used for the purpose of the state general apportionment from Sections A and B of the State School Fund.

SEC. 8. Chapter 11 (commencing with Section 11000) is added to Part 7 of the Education Code, to read:

CHAPTER 11. CALIFORNIA ACADEMIC PARTNERSHIP PROGRAM

11000. There is hereby established the California Academic Partnership Program, to be administered by the Trustees of the California State University. The purpose of the program shall be to provide academic and counseling services to pupils enrolled in grades 7 to 12, inclusive, and to increase the involvement of postsecondary educational institutions in efforts to improve the academic quality of public secondary schools. Academic partnership projects shall be distributed throughout the state in order to provide pupils enrolled in secondary schools located in rural, urban, and suburban areas with access to these services.

11001. The Chancellor of the California State University shall establish an advisory committee to assist the chancellor in selecting proposals to be funded and developing criteria for project evaluation. The committee shall be composed of the following members:

(a) Two certificated secondary school teachers, appointed by the

Superintendent of Public Instruction.

(b) Two certificated secondary school counselors, appointed by the Superintendent of Public Instruction.

(c) One community college faculty member, appointed by the Chancellor of the California Community Colleges.

(d) One director of a regional consortium participating in the California Student Opportunity Access Program established pursuant to Chapter 113 of the Statutes of 1978, appointed by the Student Aid Commission.

(e) One faculty member of the California State University, appointed by the Academic Senate of the California State University.

(f) One faculty member of the University of California, appointed by the Academic Senate of the University of California.

(g) One specialist in equal opportunities in postsecondary education, appointed by the Director of the California Postsecondary Education Commission.

In the event that any appointing power designated pursuant to this section fails to appoint a member, the Chancellor of the California State University and the President of the University of California may make the appointment according to the criteria specified in the appropriate subdivision.

11002. The advisory committee shall make recommendations to the Chancellor of the California State University regarding all of the following:

(a) Development of criteria for awarding grants pursuant to Section 11003.

(b) Development of criteria for determining the priority ranking of schools selected to receive assistance under the California Academic Partnership Program.

(c) Development of options for redirecting existing resources and efforts of public postsecondary educational institutions currently directed at assisting secondary schools with the provisions of services, recruitment, and articulation.

11003. (a) In cooperation with a school district, a postsecondary educational institution or a consortium of postsecondary educational institutions may submit an application to the Chancellor of the California State University for a grant to fund a project developed for any of the following purposes:

(1) To provide counseling services to students and their parents.

(2) To provide tutorial services to students.

(3) To promote participation of campus faculty in efforts to improve the academic quality of secondary schools.

(4) Employment of postsecondary student peer counselors.

(5) To provide in-service training for secondary school staff.

(6) To promote the involvement of campus teacher education programs in efforts to improve the academic quality of secondary schools.

(7) To project activities to help school districts upgrade school curriculum.

Each project shall be designed to serve at least two high schools and their respective feeder schools.

(b) Upon receipt of an application submitted pursuant to subdivision (a), the Chancellor of the California State University may award a grant to the joint applicants for purposes of funding the proposed project. Each project which receives a grant pursuant to this subdivision shall provide an equal dollar amount of matching funds from existing funds received from federal, state, local, or private sources or budget increases in those funds. Grants shall be awarded according to the following priorities:

(1) First, to those applicant schools and school districts utilizing the provisions of Article 4 (commencing with Section 54700) of Chapter 9 of Part 29.

(2) Second, to applicants proposing projects for schools with low student participation in institutions of postsecondary education, affording priority to those applicants in inverse order of their level of student participation in institutions of postsecondary education authorized to award baccalaureate degrees.

11004. The California Postsecondary Education Commission shall provide for a periodic evaluation of the effectiveness of the California Academic Partnership Program. The evaluation shall include, but not be limited to, indicators of increases in the number of students enrolled in postsecondary educational institutions and of a reduction in dropout rates, and the assessment of the effectiveness of the program by participating school districts.

The California Postsecondary Education Commission shall submit a periodic report to the Legislature on the progress of the California Academic Partnership Program, together with recommendations for improvement of the program.

11005. The California Postsecondary Education Commission shall evaluate each project which has been awarded a grant pursuant to Section 11003 three years from the date on which the grant was received. If the commission determines that the project is ineffective or not cost effective, funding for that project shall be terminated. Funds made available as a result of that termination shall be reallocated for the awarding of new grants pursuant to Section 11003.

11006. The Trustees of the California State University shall adopt rules and regulations necessary for the effective implementation of this chapter.

11007. The provisions of this chapter shall become operative July 1, 1984.

SEC. 8.3. Section 14002.1 is added to the Education Code, to read:

14002.1. In addition to all other funds appropriated to Section A of the State School Fund, the Controller shall for the 1983–84 fiscal year and each fiscal year thereafter, transfer from the General Fund to Section A of the State School Fund for apportionment during each fiscal year such additional amounts as are necessary to meet actual computed apportionments as certified by the Superintendent of Public Instruction for the purposes set forth in Section 41301.3;

provided that the total of such additional amounts transferred shall not exceed one hundred thirteen dollars and sixty-nine cents ($113.69) per pupil in 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 as certified by the Superintendent of Public Instruction.

SEC. 8.5. Section 14002.2 is added to the Education Code, to read:

14002.2. In addition to all other funds appropriated to Section A of the State School Fund, the Controller shall for the 1984–85 fiscal year and each fiscal year thereafter transfer from the General Fund to Section A of this State School Fund for apportionment during each fiscal year such additional amounts as are necessary to meet actual computed apportionments as certified by the Superintendent of Public Instruction for the purposes set forth in Section 41301.3; provided that the total of such additional amounts shall not exceed one hundred nineteen dollars and forty-five cents ($119.45) per pupil in 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 as certified by the Superintendent of Public Instruction.

SEC. 9. Section 17717.5 of the Education Code is amended 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.

Whenever a district files an application, the board may require the district to submit a five-year plan of facility need, type, and grade level. The plan may be adjusted to reflect adjusted growth targets.

SEC. 10. Section 17717.7 is added to the Education Code, to read:

17717.7. (a) The board shall notify school districts that applicant school districts are encouraged to use facilities on a year-round basis.

(b) The board shall determine, for each applicant school district which is eligible for funding for new construction, the number of pupils enrolled in facilities which are operated on a year-round basis because of overcrowding.

(c) The board shall certify the number determined pursuant to subdivision (b) to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall allow to the district the amount computed pursuant to Section 42250.

SEC. 11. Section 17722 of the Education Code is amended to read:

17722. Except as provided in Section 17741, the board shall not approve any new school facilities for any applicant school district or county superintendent of schools until it has (1) first made a

determination that such applicant will utilize all existing facilities to the extent economically and practically feasible, and (2) written documentation that there are no available facilities in any adjacent school district that would be economically and practically feasible to utilize. If facilities are available in an adjacent district, the district may arrange for a lease and lease payment with the adjacent district.

Notwithstanding Section 39363.5, if the governing board of a school district has available school facilities not in use, it shall first offer to lease those facilities to adjacent school districts, at fair market value. In the event of a dispute regarding the terms of the lease agreement, the State Allocation Board shall prescribe the terms of the lease agreement, and the school districts shall enter into the agreement.

SEC. 12. Section 17749 of the Education Code is amended to read:

17749. Whenever at least 10 percent of the allowable new building construction contained in an application is to be utilized for relocatable structures, an additional three square feet of building area shall be allowed. Any additional percentage of relocatable structures utilized above 10 percent, to a maximum of 20 percent, may, notwithstanding Section 17761, result in the reduction of the applicant district's 10-percent matching requirement. The reduction shall be a 1-percent reduction for every 2-percent utilization above the 10 percent. This reduction is applicable for those attendance units to be housed in new buildings under such application, beyond the amounts set forth in Section 17743, 17744, 17745, or 17746.

SEC. 13. Section 17751 is added to the Education Code, to read:

17751. (a) A district may enter into an agreement with another governmental entity which includes some or all of the territory of the district for the purpose of the joint use of park and recreation facilities or commercial or industrial facilities.

(b) Should the board receive an application for a project which includes some or all of the territory of the district for the purpose of the joint use of park and recreation facilities or commercial or industrial facilities, the board shall evaluate the application disregarding any space in the proposed joint-use facility which is beyond the needs of the district, provided the application contains a copy of the agreement specified in subdivision (a), and provided that the contract contains at least the following:

(1) Agreement that the county or other appropriate entity shall deposit in the county school lease-purchase fund, created pursuant to Section 17734, an amount equal to the total cost of any space in the proposed joint-use facility which is beyond the needs of the district, prior to the signing of the construction contract for the project. The deposit shall not be refundable, except to the extent that it may prove subsequently to be in excess of the actual total cost of the space which is beyond the needs of the district.

(2) Agreement between the district and the county or other appropriate entity regarding staffing, maintenance, materials acquisition, and other matters related to the administration and operating costs of the joint-use facility.

(3) Agreement between the district and the county or other appropriate entity regarding the procedure for amendment or termination of the contract, including the disposition of materials housed in the joint-use facility should termination of the contract occur.

(c) Any space in a joint-use facility which is beyond the needs of the district shall not be included by the board in any calculations made for any other purposes provided for in this article for the period of time that the contract for that joint-use facility remains in effect. Should the contract be terminated, the board shall include the additional space in any calculations made after the termination for any other purposes provided for in this article.

SEC. 14. Section 17780 of the Education Code is amended to read:

17780. Notwithstanding any other provision of law, whenever moneys transferred to the General Fund each year from (1) moneys deposited in the Public School Building Loan Fund pursuant to Section 15735, and (2) moneys deposited in the State School Building Aid Fund pursuant to Section 16080, are in excess of the amounts required to reimburse the General Fund on account of principal and interest due and payable for that fiscal year on all school building aid bonds outstanding against the state, an amount equal to such excess is appropriated from the General Fund for purposes of the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700) of this part) and Section 39619. The Controller shall transfer, as directed by the State Allocation Board, such appropriated amount to the State School Building Lease-Purchase Fund and to the State School Deferred Maintenance Fund, which is hereby established.

Notwithstanding Section 13340 of the Government Code, the State School Deferred Maintenance Fund is continuously appropriated for the purposes for which it is established.

SEC. 16. Section 33308.5 is added to the Education Code, to read:

33308.5. (a) Program guidelines issued by the State Department of Education shall be designed to serve as a model or example, and shall not be prescriptive. Program guidelines issued by the department shall include written notification that the guidelines are merely exemplary, and that compliance with the guidelines is not mandatory.

(b) The Superintendent of Public Instruction shall review all program guidelines prepared by the State Department of Education prior to issuance to local education agencies. The superintendent shall approve the proposed guidelines only if he or she determines that all of the following conditions are met:

(1) The guidelines are necessary.

(2) The department has the authority to issue the guidelines.

(3) The guidelines are clear and appropriately referenced to, and consistent with, existing statutes and regulations.

SEC. 17. Article 7 (commencing with Section 33600) is added to Chapter 4 of Part 20 of the Education Code, to read:

Article 7. Commission on School Governance and Management

33600. There is in the state government the Commission on School Governance and Management consisting of two members appointed by the Speaker of the Assembly, two members appointed by the Senate Rules Committee, and two members appointed by the Governor, any of whom may be members of the Legislature; two members appointed by the State Board of Education, both of whom shall be members of governing boards of a school district; and two members appointed by the Superintendent of Public Instruction, one of whom shall be the superintendent of a school district, and the other a county superintendent of schools. The Superintendent of Public Instruction, the Director of the Department of Finance, the Legislative Analyst, the Chancellor of the California Community Colleges, and the Secretary of Health and Welfare shall serve as ex officio members.

Any members of the Legislature appointed to the commission pursuant to this section shall meet with, and participate in the work of, the commission to the extent that such participation is not incompatible with their positions as members of the Legislature, and shall serve at the pleasure of the appointing power.

33601. The commission shall select one of its appointed members to be chairperson of the commission. The commission may utilize the services of the office of the Superintendent of Public Instruction for purposes of staff support and for other information necessary to the implementation of its responsibilities. The commission, through the Superintendent of Public Instruction, may contract for technical studies or support.

33602. The commission shall conduct appropriate studies and make recommendations to the Legislature and the Governor regarding:

(a) The consolidation of the statewide and regional functions and responsibilities of county offices of education, special regional planning units, regional occupational centers and programs, the State Department of Education, and other regionally administered educational units.

(b) Recommendations as to the size and scope of authority of schools and school districts necessary to improve educational management capabilities and to facilitate the participation of parents and district residents in the establishment of school policies.

(c) Recommendations as to measures necessary to eliminate the duplication of activities among school districts; state, regional, and local educational units; community colleges; and other state agencies.

(d) An evaluation of the assignment of duties carried out by schools which duplicate activities of other governmental units or are not the proper responsibility of the school system.

(e) An evaluation of the growth of nonteaching school personnel over the past 12 years, an assessment of the reasons for the growth

of, and the need for, personnel, and recommendations regarding ways for schools to increase efficiency in management and use of nonteaching personnel.

(f) Recommendations regarding the appropriate taxing authority to be granted to school districts.

33603. The commission shall prepare its initial report for submission to the Legislature and the Governor on or before October 1, 1984.

SEC. 17.5. Section 35031 of the Education Code is amended to read:

35031. Any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, may be elected for a term of four years. The governing board of any school district, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the superintendent of schools, or any associate, deputy, or assistant superintendent of schools of the district, and reelect or reemploy the employee, on such terms and conditions as may be mutually agreed upon by the board and the employee, for a new term to commence on the effective date of the termination of the existing term of employment. In the event the governing board of a school district determines the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service is not to be reelected or reemployed as such upon the expiration of his or her term, he or she shall be given written notice thereof by the governing board at least 45 days in advance of the expiration of his or her term. In the event the governing board of a district fails to reelect or reemploy the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service as such and the written notice herein provided for has not been given, the he or she shall be deemed reelected for a term of the same length as the one completed, and under the same terms and conditions and with the same compensation.

SEC. 18. Section 35160.5 is added to the Education Code, to read:

35160.5. On or before December 1, 1984, the governing board of each school district shall, as a condition for the receipt of school apportionments from the State School Fund, adopt rules and regulations establishing school district policies as they relate to the following:

(a) Certification that personnel assigned to evaluate teachers have demonstrated competence in instructional methodologies and evaluation for teachers they are assigned to evaluate. The determination of whether school personnel meet the district's adopted policies shall be made by the governing board.

(b) The establishment of district policies ensuring that each probationary certificated employee is assigned to a school within the

district with assurances that his or her status as a new teacher and his or her potential needs for training, assistance, and evaluations will be recognized by the district.

(c) The establishment of policies and procedures which parents or guardians of pupils enrolled in the district may use to present complaints regarding employees of the district. These policies and procedures shall provide for appropriate mechanisms to respond to, and where possible to resolve, the complaints.

The governing board of each school district shall annually review the school district policies adopted pursuant to the requirements of this section.

SEC. 18.3. Section 39363 of the Education Code is amended to read:

39363. The funds derived from the sale of surplus property shall be used for capital outlay or for costs of maintenance of school district property that the governing board of the school district determines will not recur within a five-year period. Proceeds from a lease of school district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board, for up to a five-year period. In addition, the proceeds may be deposited in the general fund of the district for any general fund purpose if the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease, and the district has no major deferred maintenance requirements.

SEC. 18.5. Section 41301.3 is added to the Education Code, to read:

41301.3. (a) The amount transferred to Section A of the State School Fund pursuant to Section 14002.1 for the 1983–84 fiscal year shall be expended as needed to fund the items in the following schedule, but not to exceed the amounts allocated for each item according to the schedule. The amounts in the schedule are expressed as amounts per pupil in average daily attendance during the 1982–83 fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state as certified by the Superintendent of Public Instruction:

(1) District revenue limits pursuant to Section 42238, except paragraph (4) of subdivision (b), and subdivision (g), thirty-nine dollars and seventy-five cents ($39.75).

(2) Cost-of-living adjustments for special education programs at 8 percent and all other categorical education programs at 6 percent, twenty-two dollars and eighteen cents ($22.18).

(3) Instructional Materials Fund, eight dollars and sixty-seven cents ($8.67).

(4) Minimum teacher salaries pursuant to Section 45023.4, two dollars and ninety cents ($2.90).

(5) Teacher mentor program pursuant to Section 44490, two dollars and fifty-four cents ($2.54).

(6) Tenth grade counseling pursuant to Section 48431.7, one dollar and forty-five cents ($1.45).

(7) Necessary small school revenue limits pursuant to Section 42280, seventy-two cents ($0.72).

(8) County superintendents of schools revenue limits pursuant to Section 2558, one dollar and seventy-six cents ($1.76).

(9) Adult education revenue limits pursuant to Section 52616, one dollar and eighty-three cents ($1.83).

(10) Small school district school bus purchases pursuant to Section 42290, twenty-four cents ($0.24).

(11) State special schools, six cents ($0.06).

(12) Vocational agriculture pursuant to Section 52460, seventy-two cents ($0.72).

(13) Golden State Examinations pursuant to Section 60700, three cents ($0.03).

(14) Implementation of Article 15 (commencing with Section 51870) of Chapter 5 of Part 28, as proposed by Assembly Bill 803 of the 1983–84 Regular Session of the Legislature, if enacted, twelve cents ($0.12).

(15) For purposes of paragraph (4) of subdivision (b), and subdivision (g) of Section 42238, thirty dollars and seventy-two cents ($30.72).

(b) In the event that funds transferred to Section A of the State School Fund pursuant to Section 14002.1 are insufficient to fully fund the items pursuant to the schedule of subdivision (a) of this section, the Superintendent of Public Instruction shall fully fund each category in numerical order of the paragraphs of subdivision (a), to the extent that funds are available.

(c) The amount transferred to Section A of the State School Fund pursuant to Sections 14002, 14002.1, and 14002.2, and any other appropriation, in the 1984–85 fiscal year and each fiscal year thereafter shall be expended as needed to first fund the schedule in Section 41301 and any remaining funds shall be expended according to the following schedule, but not to exceed the amounts allocated for each item according to the schedule. The amounts in the schedule are expressed as amounts per pupil in 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 as certified by the Superintendent of Public Instruction:

(1) District revenue limits pursuant to Section 42238, except for the portion of the revenue limits attributable to the operation of Section 42238.2 as it read in the 1983–84 fiscal year, fifty-eight dollars and three cents ($58.03).

(2) Maintenance of cost-of-living adjustments granted for special education programs and other categorical education programs in prior fiscal years, twenty-three dollars and forty-four cents ($23.44).

(3) Instructional Materials Fund, nine dollars and nineteen cents ($9.19).

(4) Extended School Year pursuant to Section 46200, sixty dollars

and thirty-nine cents ($60.39).

(5) Minimum teacher salaries pursuant to Section 45023.4, five dollars and eighty cents ($5.80).

(6) Grants to teachers pursuant to Section 44700, four dollars and thirty-five cents ($4.35).

(7) Teacher mentor program pursuant to Section 44490, seven dollars and twenty-five cents ($7.25).

(8) Summer school programs pursuant to Section 42238.6, nine dollars and sixty-six cents ($9.66).

(9) Tenth grade counseling pursuant to Section 48431.7, one dollar and forty-five cents ($1.45).

(10) School Improvement Program pursuant to Section 52048, two dollars and forty-one cents ($2.41).

(11) Necessary small school revenue limits pursuant to Section 42280, seventy-two cents ($0.72).

(12) Urban Impact Aid for nonunified school districts pursuant to Section 54060, two dollars and seventeen cents ($2.17).

(13) County superintendents of schools revenue limits pursuant to Section 2558, one dollar and eighty-six cents ($1.86).

(14) Year round school operation incentive pursuant to Section 42250, one dollar and eighty-one cents ($1.81).

(15) Teacher Education and Computer Centers pursuant to Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25, one dollar and twenty-one cents ($1.21).

(16) Adult education revenue limits pursuant to Section 52616, two dollars and eighty-three cents ($2.83).

(17) Opportunity schools pursuant to Section 48643, ninety-seven cents ($0.97).

(18) Academic partnership program pursuant to Section 11000, twenty-four cents ($0.24).

(19) Specialized high schools pursuant to Section 58800, forty-eight cents ($0.48).

(20) Administrator training pursuant to Section 44681, twelve cents ($0.12).

(21) Education performance incentive pursuant to Section 54680, one dollar and sixty-nine cents ($1.69).

(22) Funds to districts which lost Public Law 81-874 funds pursuant to Section 42238.3 as proposed by Senate Bill 391, if enacted, six dollars and thirty-five cents ($6.35).

(23) For the portion of district revenue limits attributable to the operation of Section 42238.2, as it read in the 1983–84 fiscal year, thirty dollars and seventy-two cents ($30.72).

(d) In the event that funds transferred to Section A of the State School Fund pursuant to Sections 14002, 14002.1, and 14002.2, and any other appropriation, are insufficient to fully fund the items pursuant to the schedules of Section 41301 and subdivision (c) of this section, the Superintendent of Public Instruction shall fully fund each category in numerical order of the paragraphs of subdivision (c) to the extent that funds are available.

(e) In the event the Director of Finance, upon verification of the Commission on State Finance, determines that state General Fund revenues for the 1984–85 fiscal year will be less than 110 percent of the state General Fund revenues of the 1983–84 fiscal year, the Director of Finance may, not sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, uniformly reduce the amounts scheduled in subdivision (c) of this section by 10 times the percent by which the estimated 1984–85 fiscal year General Fund revenues are below 110 percent of the 1983–84 fiscal year revenues.

SEC. 18.7. Section 41868 is added to the Education Code, to read:

41868. This article 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 that date.

SEC. 18.9. Article 10 (commencing with Section 41850) is added to Chapter 8 of Part 24 of the Education Code, to read:

Article 10. Allowances for Transportation

41850. (a) "Transportation" as used in this article means:

(1) The transportation of pupils, including individuals with exceptional needs, between their homes and the regular full-time day schools attended by them as provided by a school district.

(2) The payment of moneys by a school district to parents or guardians of pupils in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools attended by them.

(3) The providing of board and lodging to pupils by a school district in lieu of providing for the transportation of the pupils between their homes and the regular full-time day schools attended by them.

(4) The transportation of pupils between the regular full-time day schools they would attend and the regular full-time occupational training classes attended by them as provided by a regional occupational center or program.

41851. (a) For the 1984–85 fiscal year and each fiscal year thereafter, from Section A of the State School Fund the Superintendent of Public Instruction shall apportion to each school district and county superintendent of schools which received a transportation allowance in the prior fiscal year, an amount computed pursuant to this section. School districts and county superintendents of schools which provide transportation services by means of a joint powers agreement, a cooperative pupil transportation program, or a consortium shall receive transportation allowances pursuant to this section.

(b) Any school district or county superintendent which certifies to the Superintendent of Public Instruction at the end a fiscal year that its approved transportation expenditures for that fiscal year were at least 95 percent of the state allowance received in the prior

fiscal year for approved transportation costs shall receive a transportation allowance for the current fiscal year equal to the amount of the transportation allowance received in the prior fiscal year, increased by the amount provided in the Budget Act.

(c) Any school district or county superintendent which certifies at the end of a fiscal year that its approved transportation expenditures for fiscal year were less than 95 percent of the state allowance received in the prior fiscal year for approved transportation costs shall certify the applicable percentage and shall receive a transportation allowance for the current fiscal year equal to the certified percentage of the transportation allowance received in the prior fiscal year increased by the amount provided in the Budget Act.

(d) For the 1984–85 fiscal year, for purposes of subdivisions (b) and (c), the state allowance received in the prior fiscal year shall not include corrections to expenditure reports submitted by a district or a county superintendent of schools for the 1981–82 or 1982–83 fiscal year which would result in an increase in the state allocation to that district or county superintendent of schools pursuant to this section, and which are received by the State Department of Education subsequent to the effective date of this article.

41852. Any school district or county superintendent of schools which receives a transportation allowance in the 1984–85 fiscal year or any fiscal year thereafter, shall establish a transportation fund. The district or county superintendent shall deposit in the transportation fund all transportation allowances received in any fiscal year and any other funds at the option of the district or county superintendent. Any funds remaining in the transportation fund at the end of the fiscal year shall remain in the transportation fund for expenditure in subsequent fiscal years. Funds deposited in the transportation fund shall be used exclusively for approved transportation costs, except as provided in Section 41853.

41853. If a school district or county superintendent of schools decides to discontinue its transportation services, any unencumbered funds remaining in the transportation fund after transportation services are discontinued shall be transferred to the general fund of the district or county superintendent.

In the fiscal year in which the funds are transferred, the Superintendent of Public Instruction shall reduce the state apportionment pursuant to Section 2558 or 42238 to the district or county superintendent by the amount of the funds transferred from the transportation fund to the general fund of the district or county superintendent.

41854. This article shall become operative July 1, 1984.

SEC. 19.1. Section 41972 of the Education Code is amended to read:

41972. Balances available from any appropriation for apportionments from Section A of the State School Fund and funds provided by subdivision (c) of Section 14002, or provided by any other provision of law in lieu of those sections, shall be used to restore

any reductions in apportionments to elementary, high, and unified school districts and county superintendents of schools as follows:

(a) First, for revenue limits computed pursuant to Sections 2558 and 42238.

(b) Second, for special education computed pursuant to Sections 56713.

(c) Third, for home-to-school transportation computed pursuant to Section 41856.

(d) Fourth, for special transportation computed pursuant to Section 56770.

Any remaining balances otherwise transferable under subdivisions (b) and (c) of Section 14002 shall revert to the General Fund.

SEC. 19.2. Section 42237 of the Education Code is repealed.

SEC. 19.3. Section 42238 of the Education Code is repealed.

SEC. 19.4. Section 42238 is added to the Education Code, to read:

42238. (a) For the 1983–84 fiscal year, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The county superintendent shall add the following amounts:

(1) The base revenue limit per unit of average daily attendance for the 1982–83 fiscal year determined pursuant to Item 6100-101-001 of the Budget Act of 1982.

(2) The inflation adjustment specified in Section 42238.1.

(3) The funding per unit of average daily attendance received in the 1982–83 fiscal year pursuant to Section 247 of Chapter 327 of the Statutes of 1982.

(4) The minimum revenue guarantee adjustment, if any, specified in Section 42238.2.

(5) The equalization adjustment specified in Section 42238.4.

(c) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) 1.15 times the sum of the amounts in paragraphs (1), (3), and (4) of subdivision (b) divided by the 1982–83 revenue limit average daily attendance.

(d) Except for districts subject to subdivision (e), the base revenue limit determined pursuant to subdivision (c) shall be multiplied by the district average daily attendance determined pursuant to Section 42238.5.

(e) For districts which for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the 1983–84 fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (d):

(1) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average

daily attendance for districts of similar type for the 1983–84 fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the 1983–84 and 1982–83 fiscal years.

(3) Add the amounts in subdivisions (1) and (2).

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (d) or (e), as appropriate.

(g) In no event shall the amount computed pursuant to subdivision (d) or (e), as appropriate, plus the amount computed pursuant to subdivision (f), be less than the sum of the 1982–83 fiscal year base revenue limit per unit of average daily attendance multiplied by the 1982–83 fiscal year regular average daily attendance, plus any amount computed pursuant to Section 42239 as it read in the 1982–83 fiscal year, plus any amount computed in the 1982–83 fiscal year for the minimum revenue guarantee, plus the amount received pursuant to Section 247 of Chapter 327 of the Statutes of 1982. The 1982–83 fiscal year amounts shall be adjusted proportionately for any change in average daily attendance due to district reorganization, transfers of responsibility for maintaining a junior high program for 7th and 8th grade pupils, changes in state laws regarding attendance reporting, or changes in interdistrict attendance agreements.

(h) Paragraph (4) of subdivision (b) and subdivision (g) shall be funded only from moneys scheduled for those purposes in subdivision (a) of Section 41301.3.

(i) For the 1983–84 fiscal year, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982. For the 1983–84 fiscal year, the decreased contributions shall be based on the 1982–83 salaries of employees participating in the Public Employees' Retirement System during the 1982–83 fiscal year. For the purposes of this subdivision, no reduction shall be made for decreased contributions for positions that, during the 1982–83 fiscal year, were:

(1) Supported totally by federal funds which were subject to supplanting restrictions.

(2) Supported by funds received pursuant to Section 42243.6.

(3) Supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) for any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this section by the Superintendent of Public Instruction with the approval of the Director of Finance.

(j) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3.5 (commencing with Section 75) and 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 years 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.

(k) 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 that date.

SEC. 19.5. Section 42238.1 is added to the Education Code, to read:

42238.1. (a) For the 1983–84 fiscal year, the inflation adjustments for school districts shall be the following amounts:

(1) Elementary districts, one hundred thirty-seven dollars ($137).

(2) High school districts, one hundred sixty-eight dollars ($168).

(3) Unified districts, one hundred forty-nine dollars ($149).

(b) 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 that date.

SEC. 19.6. Section 42238.2 is added to the Education Code, to read:

42238.2. (a) Each district which received a minimum revenue guarantee pursuant to Item 6100-101-001 of the Budget Act of 1982 shall receive a minimum revenue guarantee adjustment computed in the following manner.

(b) Divide the amount calculated in the 1982–83 fiscal year on account of the minimum revenue guarantee pursuant to Provision 6 of Item 6100-101-001 of the Budget Act of 1982 by the district's 1982–83 fiscal year revenue limit average daily attendance.

(c) From the amount computed pursuant to subdivision (b) subtract any amount received pursuant to Section 42238.4.

(d) The minimum guarantee adjustment shall be the greater of the amount in subdivision (c) or zero.

(e) 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 that date.

SEC. 19.7. Section 42238.4 is added to the Education Code, to read:

42238.4. (a) For the 1983–84 fiscal year, the county superintendent shall compute an equalization adjustment for each district in the following manner:

(b) From the statewide average base revenue limit per unit of average daily attendance for the 1982–83 fiscal year for districts of the appropriate size and type listed in subdivision (e) subtract fifty dollars ($50).

(c) From the amount in subdivision (b) subtract the district's 1982–83 base revenue limit per unit of average daily attendance.

(d) The equalization adjustment shall be the greater of the amount in subdivision (c) or zero.

(e) For purposes of subdivision (b), districts shall be grouped according to size and type as follows:

District	*ADA*
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(f) 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 that date.

SEC. 19.8. Section 42238.5 of the Education Code is repealed.

SEC. 19.9. Section 42238.5 is added to the Education Code, to read:

42238.5. (a) For purposes of Section 42238, the fiscal year average daily attendance shall be computed pursuant to paragraph (1), (2), or (3).

(1) The second principal apportionment regular average daily attendance for either the current or prior fiscal year, whichever is greater. However, any district which has experienced a loss of average daily attendance due to a reorganization shall use district average daily attendance computed for the current fiscal year.

(2) For the 1983–84 fiscal year, the amount prescribed by paragraph (1) plus 25 percent of the loss in average daily attendance between fiscal years 1981–82 and 1982–83 as computed in the 1982–83 fiscal year pursuant to Section 42239, as it read in the 1982–83 fiscal year, minus any increase in average daily attendance between the 1982–83 and 1983–84 fiscal years, but not less than zero.

(3) Any school district which elects to receive funding pursuant to Article 4 (commencing with Section 42280) shall compute its units of average daily attendance for purposes of Section 42238 by subtracting the amount determined in subparagraph (B) from the amount determined in subparagraph (A).

(A) The units of average daily attendance computed pursuant to either paragraph (1) or (2).

(B) The units of average daily attendance resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280).

(b) For purposes of this article, regular average daily attendance shall be the base revenue limit average daily attendance, excluding summer school average daily attendance, but including the fiscal year units of average daily attendance for pupils concurrently enrolled in adult programs and classes.

SEC. 20. Section 42238.6 of the Education Code is repealed.

SEC. 20.1. Section 42238.6 is added to the Education Code, to read:

42238.6. (a) For the 1983–84 fiscal year, to the average daily attendance calculated pursuant to Section 42238.5, add 0.6 times the sum of the average daily attendance for the following:

(1) The summer units of average daily attendance for graduating seniors and pupils participating in summer school programs in grades 7 to 12, inclusive, who did not meet the district's adopted proficiency standard.

(2) 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.

(3) 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 paragraph (1) or (2).

(b) 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 that date.

SEC. 20.2. Section 42238.7 is added to the Education Code, to read:

42238.7. (a) In the 1984–85 fiscal year, for each school district which increased in that fiscal year the length of its school year pursuant to Section 46200, the amount computed pursuant to Section 42238 shall be increased by the product of thirty-five dollars ($35) and the regular average daily attendance for the 1984–85 fiscal year.

(b) This section shall remain in effect only until July 1, 1985, and as of that date is repealed, unless a later enacted statute which is chaptered before July 1, 1985, deletes or extends that date.

SEC. 20.3. Section 42238.8 is added to the Education Code, to read:

42238.8. (a) In the 1984–85, 1985–86, and 1986–87 fiscal years, any school district which offers at least the amounts of instructional time specified in Section 46201 for the applicable fiscal year shall increase the amount computed pursuant to Section 42238 in that fiscal year by the product of the amount per unit of average daily attendance received by the district pursuant to Section 46201 in that fiscal year and the average daily attendance of the pupils in the grade levels for which funding pursuant to Section 46201 was received.

(b) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is

chaptered before July 1, 1987, deletes of extends that date.

SEC. 20.4. Section 42238 is added to the Education Code, to read:

42238. (a) For the 1984–85 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) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1984–85 fiscal year only, the equalization adjustment specified in Section 42238.4.

(3) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to Section 42238.7.

(4) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(c) Except for district subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(1) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(3) Add the amounts in subdivisions (1) and (2).

(e) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) The amount computed pursuant to Section 42238 for the prior fiscal year divided by the prior fiscal year revenue limit average daily attendance times the sum of 1.0 and twice the percentage increase in revenue limits computed pursuant to Section 42238.1 for the current fiscal year.

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(g) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and 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 years 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.

(h) This section shall become operative July 1, 1984.

SEC. 20.5. Section 42238.1 is added to the Education Code, to read:

42238.1. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall compute an inflation adjustment equal to the product of paragraphs (1) and (2):

(1) Compute for the sum of the following:

(A) The statewide average base revenue limit per unit of average daily attendance for the prior fiscal year for districts of similar type.

(B) The amount, if any, per unit of average daily attendance received by the district pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 for the prior fiscal year.

(2) The change in the Implicit Price Deflator for Government Goods and Services for the United States, as published by the United States Department of Commerce for the prior fiscal year.

(b) This section shall become operative July 1, 1984.

SEC. 20.6. Section 42238.4 is added to the Education Code, to read:

42238.4. (a) For the 1984–85 fiscal year, the county superintendent shall compute an equalization adjusted for each district so that no district's base revenue limit per unit of average daily attendance is less than the 1983–84 fiscal years statewide average base revenue limit for the appropriate size and type of district listed in subdivision (b) plus the inflation adjustment specified in Section 42238.1 for the 1984–85 fiscal year for the appropriate type of district.

(b) For purposes of subdivision (a), districts shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101

Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) This section shall become operative July 1, 1984.

SEC. 20.7. Section 42239 of the Education Code is repealed.

SEC. 20.8. Section 42239 is added to the Education Code, to read:

42239. For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent shall compute an amount for each school district's summer school attendance in the following manner:

(a) Divide the amount received on account of average daily attendance pursuant to Section 42238.6 in the 1983–84 fiscal year by the 1983–84 fiscal year hours of attendance. This amount shall be increased annually by the percentage increase granted to school districts for base revenue limit increases.

(b) Multiply the amount computed in subdivision (a) by the lesser of the 1983–84 fiscal year hours of summer school attendance or the actual fiscal year hours of summer school attendance.

(c) If the fiscal year hours of summer school attendance exceed the 1983–84 fiscal year summer school hours of attendance, multiply the increased hours by one dollar and fifty cents ($1.50). This amount shall be increased annually by the percentage increase granted to school districts for base revenue limit increases.

(d) Commencing in the 1984–85 fiscal year, summer school attendance shall be the sum of paragraphs (1) and (2):

(1) The hours of attendance in the categories identified in Section 42238.6 as it read in the 1983–84 fiscal year.

(2) Any summer school hours of attendance for mathematics, science, or other core academic areas designated by the Superintendent of Public Instruction.

(e) Enrollment in summer school programs offered pursuant to paragraph (2) of subdivision (d) shall not exceed 5 percent of the district's total enrollment.

SEC. 20.9. Section 42239.1 of the Education Code, as amended by Section 1 of Chapter 829 of the Statutes of 1981, is repealed.

SEC. 21. Section 42239.1 of the Education Code, as added by Section 2 of Chapter 829 of the Statutes of 1981, is repealed.

SEC. 21.1. Section 42239.5 of the Education Code is repealed.

SEC. 21.2. Section 42239.8 of the Education Code is repealed.

SEC. 21.3. Section 42241.4 of the Education Code is amended to read:

42241.4. (a) Prior to the calculation of the annual inflation increase to the revenue limit pursuant to Section 42238, a district may increase its revenue limit per unit of average daily attendance by any amount up to (1) the allowance received for home-to-school transportation pursuant to Section 41856 in the prior fiscal year minus the allowance received for home-to-school transportation in the 1980–81 fiscal year pursuant to Sections 41855 and 41856 as they read in the 1980–81 fiscal year, divided by (2) the number of units of average daily attendance for revenue limit purposes in the prior fiscal year.

(b) Prior to the calculation of the annual inflation increase to the revenue limit pursuant to Section 42238, a district may decrease its revenue limit per unit of average daily attendance by any amount up to (1) the maximum total dollar amount by which a district could have decreased its revenue limit pursuant to subdivision (e) of Section 42241 minus the total dollar amount by which a district did decrease its revenue limit pursuant to subdivision (e) of Section 42241, divided by (2) the number of units of average daily attendance for revenue limit purposes in the prior fiscal year.

(c) Any amount added to or deleted from the revenue limit pursuant to subdivision (a) or (b) shall also be added to or deleted from the minimum revenue guarantee calculated pursuant to subdivision (g) of Section 42238.

(d) 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 that date.

SEC. 21.4. Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code is repealed.

SEC. 21.5. Article 4 (commencing with Section 42280) is added to Chapter 7 of Part 24 of the Education Code, to read:

Article 4. Funding for Small School Districts

42280. (a) For each school district which meets in the current or prior fiscal year, the conditions specified in Section 42281, 42282, or 42284, the county superintendent of schools shall compute, for each qualifying school in the district, an amount pursuant to this article.

42281. For each elementary school district which maintains only one school with an average daily attendance of less than 101, the county superintendent shall make one of the following computations, whichever provides the lesser amount:

(1) For each small school which has an average daily attendance during the fiscal year of less than 26, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least one teacher was hired full time, the county superintendent shall compute for the district fifty-two thousand nine

hundred twenty-five dollars ($52,925).

(2) For each small school which has an average daily attendance during the fiscal year of 26 or more and less than 51, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least two teachers were hired full time for more than one-half of the days schools were maintained, the county superintendent shall compute for the district one hundred five thousand eight hundred fifty dollars ($105,850).

(3) For each small school which has an average daily attendance during the fiscal year of 51 or more but less than 76, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school three teachers were hired full time for more than one-half of the days schools were maintained, the county superintendent shall compute for the district one hundred fifty-eight thousand seven hundred seventy-five dollars ($158,775).

(4) For each small school which has an average daily attendance during the fiscal year of 76 or more and less than 101, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school four teachers were hired full time for more than one-half of the days schools were maintained, the county superintendent shall compute for the district two hundred eleven thousand seven hundred dollars ($211,700).

42282. For each district with fewer than 2 501 units of average daily attendance, on account of each necessary small school, the county superintendent shall make the following computations:

(1) For each necessary small school which has an average daily attendance during the fiscal year of less than 26, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least one teacher was hired full time, the county superintendent shall compute for the district fifty-two thousand nine hundred twenty-five dollars ($52,925).

(2) For each necessary small school which has an average daily attendance during the fiscal year of 26 or more and less than 51, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least two teachers were hired full time for more than one-half of the days schools were maintained, the county superintendent shall compute for the district one hundred five thousand eight hundred fifty dollars ($105,850).

(3) For each necessary small school which has an average daily attendance during the fiscal year of 51 or more but less than 76, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school three teachers were hired full time for more than one-half of the days schools were maintained, the county superintendent shall compute for the district one hundred fifty-eight thousand seven hundred seventy-five dollars ($158,775).

(4) For each necessary small school which has an average daily attendance during the fiscal year of 76 or more and less than 101, exclusive of pupils attending the seventh and eighth grades of a

junior high school, and for which school four teachers were hired full time for more than one-half of the days schools were maintained, the county superintendent shall compute for the district two hundred eleven thousand seven hundred dollars ($211,700).

42283. For the purposes of Section 42282, a "necessary small school" is an elementary school with an average daily attendance of less than 101, exclusive of pupils attending the seventh and eighth grades of a junior high school, maintained by a school district which maintains two or more schools and to which school any of the following conditions apply:

(a) If as many as five pupils residing in the district and attending kindergarten and grades 1 to 8, inclusive, exclusive of pupils attending the seventh and eighth grades of a junior high school in the elementary school with an average daily attendance of less than 101 would be required to travel more than 10 miles one way from a point on a well-traveled road nearest their home to the nearest other public elementary school.

(b) If as many as 15 pupils residing in the district and attending kindergarten and grades 1 to 8, inclusive, exclusive of pupils attending the seventh and eighth grades of a junior high school in the elementary school with an average daily attendance of less than 101 would be required to travel more than five miles one way from a point on a well-traveled road nearest their home to the nearest other public elementary school.

(c) If topographical or other conditions exist in a district which would impose unusual hardships if the number of miles specified in (a) or (b) were required to be traveled, or if during the fiscal year the roads which would be traveled have been impassable for more than an average of two weeks per year for the preceding five years, the governing board of the district may, on or before April 1st, request the Superintendent of Public Instruction, in writing, for an exemption from these requirements or for a reduction in the miles required. The request shall be accompanied by a statement of the conditions upon which the request is based, giving the information in such form as the Superintendent of Public Instruction may require. The Superintendent of Public Instruction shall cause an investigation to be made, and shall either grant the request to the extent he or she deems necessary, or deny the request.

42284. For each district with fewer than 2,501 units of average daily attendance, on account of each necessary small high school, the county superintendent of schools shall make one of the following computations selected with regard only to the number of certificated employees employed or average daily attendance, whichever provides the lesser amount:

Average daily attendance	Minimum number of certificated employees	Amount to be computed
1- 20	less than 3	$ 42,980

		per teacher
1- 20	3	191,340
21- 40	4	234,320
41- 60	5	277,300
61- 75	6	320,280
76- 90	7	363,260
91-105	8	406,240
106-120	9	449,220
121-135	10	492,200
136-150	11	535,180
151-180	12	578,160
181-220	13	621,140
221-260	14	664,120
261-300	15	707,100

42285. A necessary small high school for the purposes of Section 42284, is a high school with an average daily attendance of less than 301, or a junior high school with an average daily attendance of less than 75 in grade nine, excluding continuation schools, which comes within any of the following conditions (except that a single high school maintained by a unified district, or a high school maintained by any district for the exclusive purpose of educating juvenile hall pupils or pupils with exceptional needs, shall be considered a necessary small high school):

(a) The projection of its future enrollment on the basis of the enrollment of the elementary schools in the district shows that within eight years the enrollment in high school in grades 9 through 12 will exceed 300 pupils.

(b) Any one of the following combinations of distance and units of average daily attendance applies:

(1) The high school had an average daily attendance of less than 100 in grades 9 through 12 during the preceding fiscal year and is more than 15 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 20 miles or 25 percent of the pupils would be required to travel 30 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(2) The high school had an average daily attendance of 100 or more and less than 150 in grades 9 through 12 during the preceding fiscal year and is more than 10 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 18 miles or 25 percent of the pupils would be required to travel 25 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(3) The high school had an average daily attendance of 150 or more and less than 200 in grades 9 through 12 during the preceding fiscal year and is more than 7½ miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 15 miles or 25 percent of the pupils would

be required to travel 20 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(4) The high school had an average daily attendance of 200 or more and less than 300 in grades 9 through 12 during the preceding fiscal year and is more than five miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 10 miles or 25 percent of the pupils would be required to travel 15 miles to the nearest other public high school.

(c) Topographical or other conditions exist in the district which would impose unusual hardships on the pupils if the number of miles specified above were required to be traveled. In these cases, the Superintendent of Public Instruction may, when requested, and after investigation, grant exceptions from the distance requirements.

(d) The Superintendent of Public Instruction has approved the recommendation of a county committee on school district organization designating one of two or more schools as necessary isolated schools in a situation where the schools are operated by two or more districts and the average daily attendance of each of the schools is less than 300 in grades 9 through 12.

42286. If a high school is determined to be a necessary small high school under Section 42285, its status as such shall not be changed except as a review of the determinative factors made every five years following the date of the determination indicates that the determination should be changed.

Any high school which has not been determined to be a necessary small high school under Section 42285, may be determined to be a necessary small high school at the beginning of any fiscal year if it meets the criteria specified in Section 42285.

42287. For the 1984–85 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 by an amount proportionate to the increase applied to the statewide average revenue limit for unified school districts for the then current fiscal year.

SEC. 22. Section 42250 is added to the Education Code, to read:

42250. In addition to any other apportionment or allowance authorized or required by law, the Superintendent of Public Instruction shall allow to each school district the product of the number of pupils enrolled in the district certified by the State Allocation Board pursuant to subdivision (c) of Section 17717.7 multiplied by twenty-five dollars ($25).

SEC. 23. Article 4.5 (commencing with Section 42290) is added to Chapter 7 of Part 24 of the Education Code, to read:

Article 4.5. Small School District Transportation

42290. Any school district eligible for funding pursuant to Article 4 (commencing with Section 42280) in any fiscal year may, in that fiscal year, apply to the State Department of Education for an

apportionment for transportation equipment as specified in Section 42291. The State Department of Education shall adopt regulations regarding district applications pursuant to this section.

42291. The State Department of Education shall grant applications for apportionments for purposes of this article, to the extent that funds are available, according to the following priorities:

(1) First priority for apportionments shall be for the purchase of new schoolbuses to replace existing schoolbuses owned by an eligible district. No district shall receive any apportionment for the replacement of any existing schoolbuses unless the Department of the California Highway Patrol has inspected those schoolbuses pursuant to Section 2807 of the Vehicle Code and has certified that the schoolbuses which the district proposes to replace are unsafe and would not be safe if reconditioned.

(2) Second priority for apportionments shall be for the reconditioning of existing schoolbuses owned by an eligible district. No district shall receive any apportionment for the reconditioning of any existing schoolbuses unless the Department of the California Highway Patrol has inspected those schoolbuses pursuant to Section 2807 of the Vehicle Code and has certified that the schoolbuses which the district proposes to recondition are unsafe, but would be safe if reconditioned.

(3) Any remaining funds shall be apportioned for the purchase of new schoolbuses by eligible districts which have proposed to increase the number of schoolbuses owned by the district.

42292. Insofar as possible, any purchases of new schoolbuses with funds apportioned pursuant to this article shall be made by the Department of General Services. Title to any schoolbus purchased by the Department of General Services pursuant to this section shall be in the name of the school district for which the schoolbus was purchased.

SEC. 24. Section 44227.5 is added to the Education Code, to read:

44227.5. (a) It is the intent of the Legislature that college and university faculty members who teach courses relating to teaching methods in programs of professional preparation that are approved by the Commission on Teacher Credentialing have direct knowledge of the way that public elementary and secondary schools function and operate.

(b) The Commission on Teacher Credentialing, in cooperation with public and private postsecondary institutions operating teacher education programs, shall develop standards and procedures which ensure that each faculty member who teaches a course relating to teaching methods in an approved program of professional preparation actively participates in public elementary or secondary schools and classrooms at least once every three academic years.

SEC. 25. Section 44251 of the Education Code is amended to read:

44251. (a) The period for which a credential, as authorized under Section 44250 issued prior to September 1, 1985, is valid shall

be as follows:

(1) For an internship credential: two years.

(2) For a preliminary credential, pending completion of the fifth year of study: five years.

(3) For a life credential: the life of the holder.

(4) For an emergency credential: one year or as the commission may determine.

(b) The period for which a credential issued on or after September 1, 1985, as authorized under Section 44250 is valid, shall be as follows:

(1) For an internship credential, two years.

(2) For a preliminary credential, pending completion of the fifth year of study: five years.

(3) For an applicant's first clear multiple or single subject teaching credential: the life of the holder, if the holder meets the requirements of Section 44277.

(4) For any clear multiple or single subject teaching credential other than those to which paragraph (3) applies, the life of the holder.

(5) For an emergency credential: one year or as the commission may determine.

SEC. 25.1. Section 44255 of the Education Code is amended to read:

44255. No life credential shall be issued until all requirements for the credential have been met and the candidate has taught for two years in California public schools or California private schools offering instruction which exempts children from the requirements of attendance upon a public full-time day school as set forth in Section 48222.

This section shall remain in effect only until September 1, 1985, and as of that date is repealed.

SEC. 25.2. Section 44277 is added to the Education Code, to read:

44277. The Legislature recognizes that effective professional growth must continue to occur throughout the careers of all teachers, in order that teachers remain informed of changes in pedagogy, subject matter, and student needs. In enacting this section, it is the intent of the Legislature to establish professional growth requirements that give individual teachers a wide range of options to pursue as well as significant roles in determining the course of their professional growth.

(a) The minimum requirements for maintaining the validity of the clear multiple or single subject teaching credential pursuant to Section 44251 shall be both of the following:

(1) Successful service as a classroom teacher or successful service authorized by a services credential. The minimum length of service shall be equivalent to one-half of a school year.

(2) Completion of an individual program of professional growth as prescribed in this section and by the commission.

(b) An individual program of professional growth shall consist of a minimum of 150 clock hours of participation in activities which

contribute to competence, performance, or effectiveness in the profession of education. Acceptable activities shall be defined by the commission to include, among other acceptable activities, the completion of courses offered by regionally accredited colleges and universities; participation in professional conferences, workshops, teacher center programs or staff development programs; service as a mentor teacher pursuant to Section 44496; participation in school curriculum development projects; participation in systematic programs of observation and analysis of teaching; service in a leadership role in a professional organization; and participation in educational research or innovation efforts. Employing agencies and employees' bargaining agents may negotiate to agree on the terms of programs of professional growth within their jurisdictions, provided that the agreements shall be consistent with the provisions of this section.

(c) An individual program of professional growth shall be developed and planned by the holder of a clear teaching credential.

(d) Before a holder of a clear teaching credential commences or amends an individual program of professional growth, a school principal, a mentor teacher provided for in Section 44496, or other district designee shall certify to the credential holder that the planned program or amendment complies with this section and with regulations of the commission.

(e) A clear teaching credential shall be deemed to remain valid so long as the holder of the credential, at five-year intervals, submits to the commission verification by a school principal, a mentor teacher, or other district designee that the holder has satisfied the minimum requirements specified in subdivision (a). In the absence of adequate verification, the commission shall invalidate the credential. Verification by a school principal, a mentor teacher, or other district designee shall be independent of any evaluation of the performance of the holder of the clear teaching credential that is conducted for the purpose of determing the credential holder's employment status. The arbitrary refusal of a school principal, a mentor teacher, or other district designee to verify completion of an individual program of professional growth meeting the requirements of this section and commission regulations shall constitute grounds for an appeal as prescribed in Section 44278.

SEC. 25.3. Section 44278 is added to the Education Code, to read:

44278. A holder of a clear teaching credential may appeal an adverse action by a school principal, a mentor teacher, or other district designee related to professional growth. The appeal shall be presented to the commission, which shall rule in favor of the appeal if it finds any of the following claims by the appellant to be true:

(a) That a school principal, a mentor teacher, or other district designee has refused to agree to a planned individual program of professional growth that satisfies the requirements of Section 44277, or to a proposed modification in such a program. Such a finding by the commission shall be grounds for the designated agency to agree

to the planned program, or to the proposed modification program.

(b) That a school principal, a mentor teacher, or other district designee has refused to verify completion of an agreed program of professional growth that satisfies the requirements of Section 44277. Such a finding by the commission shall be grounds for the commission to maintain the validity of the clear teaching credential.

(c) That bias, fraud, unfair discrimination, or arbitrary action by a school principal, a mentor teacher, or other district designee prevented the appellant from fulfilling the terms of an agreed program of professional growth. Such a finding by the commission shall cause the commission to grant the appellant additional time, not to exceed five years, for the appellant to fulfill the terms of the agreed program, subject to verification by the commission.

SEC. 25.4. Section 44279 is added to the Education Code, to read:

44279. The commission shall not issue to the holder of an invalidated clear teaching credential another teaching credential of the same type, as defined in Section 44256.

(a) The holder of an invalidated clear teaching credential who has not satisfied the requirements of paragraph (1) of subdivision (a) of Section 44277, or who has not satisfied the requirements of paragraphs (1) and (2) of subdivision (a) of Section 44277, shall be eligible for a one-time two-year reinstatement of the clear teaching credential.

(b) The holder of an invalidated clear teaching credential who has met the requirements of paragraph (1) of subdivision (a) of Section 44277 shall be deemed eligible for the reinstatement of the credential when he or she has satisfied the requirements of paragraph (2) of subdivision (a) of Section 44277 and all current standards for the issuance of the clear teaching credential in effect at the time of the submission of the application for reinstatement.

SEC. 25.5. Article 7.5 (commencing with Section 44325) is added to Chapter 2 of Part 25 to the Education Code, to read:

Article 7.5. Teacher Trainees

44325. (a) The Commission on Teacher Credentialing shall issue teacher trainee certificates authorizing persons employed by any school district maintaining grades 9 to 12, inclusive, or maintaining grades 7 and 8 in a departmentalized junior high school, to provide classroom instruction to pupils in those grades in accordance with the requirements of Section 44830.3.

(b) Each teacher trainee certificate shall be valid for a period of two years. Upon the recommendation of the governing board of the school district, the commission may grant a one-year extension of the teacher trainee certificate.

(c) The commission shall require each applicant for a teacher trainee certificate to demonstrate that he or she meets the minimum qualifications for that certificate, including the possession of a baccalaureate degree conferred by an accredited institution of

postsecondary education and the successful passage of the state basic skills proficiency test administered under the provisions of Sections 44252 and 44252.5 in addition to the appropriate subject matter examination administered by the commission for the subject areas in which the teacher trainee is authorized to teach.

(d) The commission shall apply the requirements of Sections 44339, 44340, and 44341 to each applicant for a teacher trainee certificate.

44326. Persons holding teacher trainee certificates issued by the commission under Section 44325 shall only be authorized to teach in the subject areas in which they completed an undergraduate academic major or minor and shall be required to teach with the assistance and guidance of certificated employees of the district who have been classified as mentor teachers under the provisions of Article 4 (commencing with Section 44490) of Chapter 3 of this part.

44327. The commission may suggest alternative models of professional development plans for teacher trainees for consideration and adoption by school districts. The models may include provisions for collaboration between school districts and accredited institutions of higher education on behalf of certificated teacher trainees and mentor teachers.

44328. Unless the commission determines that substantial evidence exists that a person is unqualified to teach, upon the successful completion of two years of successful service as a teacher trainee, and upon the recommendation of the school district governing board, the commission shall award credentials to teacher trainees in the same manner as applicants recommended for credentials by institutions that operate approved programs of professional preparation.

44329. The commission shall study the effectiveness of the certificated teacher trainee program and shall report its findings to the Legislature on or before January 1, 1987.

SEC. 26. Article 4 (commencing with Section 44490) of Chapter 3 of Part 25 of the Education Code is repealed.

SEC. 28. Article 4 (commencing with Section 44490) is added to Chapter 3 of Part 25 of the Education Code, to read:

Article 4. California Mentor Teacher Program

44490. The Legislature recognizes that the classroom is the locus of teaching reward and satisfaction. However, the Legislature finds that many potentially effective teachers leave the teaching profession because it does not offer them support, assistance, recognition, and career opportunities that they need.

It is the intent of the Legislature in the enactment of this article to encourage teachers currently employed in the public school system to continue to pursue excellence within their profession, to provide incentives to teachers of demonstrated ability and expertise to remain in the public school system, and to restore the teaching

profession to its position of primary importance within the structure of the state educational system.

44491. (a) There is hereby established the California Mentor Teacher Program. On or before November 15, 1983, the Superintendent of Public Instruction shall recommend to the State Board of Education, and on or before January 1, 1984, the State Board of Education shall prescribe, rules and regulations establishing guidelines for the implementation of mentor teacher programs in school districts.

(b) The adopted rules and regulations shall specify that persons seeking classification as a mentor teacher shall meet each of the following qualifications:

(1) Is a credentialed classroom teacher with permanent status.

(2) Has substantial recent experience in classroom instruction.

(3) Has demonstrated exemplary teaching ability, as indicated by, among other things, effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of pupils in different contexts.

44492. (a) Out of the funds available for that purpose, the superintendent shall allocate funds to participating school districts for the purpose of providing stipends to mentor teachers. The superintendent shall annually make a determination as to the number of certificated classroom teachers employed by each participating school district and may authorize the district to designate as mentors up to 5 percent of the total number of certificated classroom teachers who meet the minimum qualifications established by subdivision (b) of Section 44491.

The superintendent shall increase any fraction resulting from the 5 percent calculation to the next integer, and shall allow districts which have at least five certificated employees to designate one classroom teacher as a mentor teacher.

(b) Each district which has less than five certificated employees shall be eligible for an amount of funding in the mentor teacher program computed by multiplying the number of certificated employees in the district by 5 percent, and multiplying the result by four thousand dollars ($4,000).

(c) Out of the funds available for that purpose, the superintendent shall, in the exercise of his or her discretion, allocate to participating school districts an amount which the superintendent determines to be sufficient to reimburse the necessary costs of participation in the mentor program. For purposes of this subdivision, necessary costs of participation in the mentor program shall include, but not be limited to, the costs of employing a substitute classroom teacher for a mentor teacher who uses all or part of his or her stipend for professional growth or release time, and costs of administering the program.

If at the end of any fiscal year, an amount of the funds available for purposes of this subdivision remains unallocated, the Superintendent of Public Instruction shall utilize the unallocated

amount for purposes of subdivision (a) or (b) in the next fiscal year.

(d) Any school district may apply for and receive funds for the purposes of this program.

44492.3. In the event that funds available for purposes of providing stipends to mentor teachers are insufficient to provide stipends for the maximum number of certificated classroom teachers authorized to be designated as mentors pursuant to subdivision (a) of Section 44492, the Superintendent of Public Instruction shall decrease the percentage multiplier established in subdivisions (a) and (b) of Section 44492 so that the allocation and authorized number of mentors for each participating school district would be decreased on a pro rata basis.

44492.5. On or before November 15, 1983, the Superintendent of Public Instruction shall submit a report to the Legislature which shall include the superintendent's plan for the programmatic review of applications submitted by districts for funding pursuant to Section 44492, and a summary of the implementation of the California Mentor Teacher Program to date.

44493. Participating school districts receiving funding pursuant to Section 44492 shall establish a special account exclusively for the support of the mentor teacher program. None of the funds allocated by the superintendent pursuant to subdivision (a) of Section 44492 for purposes of providing stipends to mentor teachers shall be used by the participating district for the cost of administering the program.

44494. (a) On or before September 1 of each year, participating school districts which receive funding pursuant to subdivision (a) of Section 44492 shall allocate no less than four thousand dollars ($4,000) to provide each qualified mentor with an additional annual stipend over and above the regular salary to which he or she is entitled. Participating school districts which receive funding pursuant to subdivision (b) of Section 44492 shall allocate the full amount so received to provide a qualified mentor with an additional annual stipend over and above the regular salary to which he or she is entitled. This stipend shall not be counted as salary or wages for purposes of calculating employer contribution rates or employee benefits under the State Teachers' Retirement System.

(b) A mentor may propose that the district allocate all or part of the stipend for his or her professional growth or release time.

(c) The governing board may designate certificated employees as mentor teachers pursuant to Section 44491 and pay these persons the additional annual stipend authorized under subdivision (a) for a period not to exceed three consecutive school years. Upon completing three years as a mentor teacher, an individual may be reviewed and renominated.

(d) The subject of participation by a school district or an individual certificated classroom teacher in a mentor teacher program shall not be included within the scope of representation in collective bargaining among a public school employer and eligible

employee organizations.

44495. The selection procedures for the designation of certificated classroom teachers as mentor teachers shall, at a minimum, provide for the following:

(a) A selection committee shall be established to nominate candidates for selection as mentor teachers. The majority of the committee shall be composed of certificated classroom teachers chosen to serve on the committee by other certificated classroom teachers. The remainder of the committee shall be composed of school administrators, chosen to serve on the committee by other school administrators. The governing board of a participating school district shall consider including parents, pupils, or other public representatives in the selection process, and may, at its option, include such persons.

(b) Candidates for mentor teacher shall be nominated by the majority vote of the selection committee.

(c) The selection process shall include provisions for classroom observation of candidates by administrators and classroom teachers employed by the district.

(d) The final designation of any person as a mentor teacher shall be by action of the governing board of the school district from persons nominated pursuant to subdivision (b). The governing board may reject any nominations.

44496. (a) Persons designated as mentor teachers pursuant to this article shall be assigned duties and responsibilities in accordance with the following:

(1) The primary function of a mentor teacher shall be to provide assistance and guidance to new teachers. A mentor teacher may also provide assistance and guidance to more experienced teachers.

(2) Mentor teachers may provide staff development for teachers, and may develop special curriculum.

(3) A mentor teacher shall not participate in the evaluation of teachers.

(b) No administrative or pupil personnel services credential shall be required of any mentor teacher. Each mentor teacher shall spend, on the average, not less than 60 percent of his or her time in the direct instruction of pupils.

SEC. 29. Section 44662 of the Education Code is amended to read:

44662. (a) The governing board of each school district shall establish standards of expected pupil achievement at each grade level in each area of study.

(b) The governing board of each school district shall evaluate and assess certificated employee competency as it reasonably relates to:

(1) The progress of pupils toward the standards established pursuant to subdivision (a).

(2) The instructional techniques and strategies used by the employee.

(3) The employee's adherence to curricular objectives.

(4) The establishment and maintenance of a suitable learning

environment, within the scope of the employee's responsibilities.

(c) The governing board of each school district shall establish and define job responsibilities for those certificated noninstructional personnel, including, but not limited to, supervisory and administrative personnel, whose responsibilities cannot be evaluated appropriately under the provisions of subdivision (b), and shall evaluate and assess the competency of such noninstructional certificated employees as it reasonably relates to the fulfillment of those responsibilities.

(d) The evaluation and assessment of certificated employee competence pursuant to this section shall not include the use of publishers' norms established by standardized tests.

(e) Nothing in this section shall be construed as in any way limiting the authority of school district governing boards to develop and adopt additional evaluation and assessment guidelines or criteria.

SEC. 30. Section 44663 of the Education Code is amended to read:

44663. Evaluation and assessment made pursuant to this article shall be reduced to writing and a copy thereof shall be transmitted to the certificated employee not later than 30 days before the last schoolday scheduled on the school calendar adopted by the governing board for the school year in which the evaluation takes place. The certificated employee shall have the right to initiate a written reaction or response to the evaluation. Such response shall become a permanent attachment to the employee's personnel file. Before the last schoolday scheduled on the school calendar adopted by the governing board for the school year, a meeting shall be held between the certificated personnel and the evaluator to discuss the evaluation.

SEC. 31. Section 44664 of the Education Code is amended to read:

44664. (a) Evaluation and assessment of the performance of each certificated employee shall be made on a continuing basis, at least once each school year for probationary personnel, and at least every other year for personnel with permanent status. The evaluation shall include recommendations, if necessary, as to areas of improvement in the performance of the employee. In the event an employee is not performing his or her duties in a satisfactory manner according to the standards prescribed by the governing board, the employing authority shall notify the employee in writing of such fact and describe such unsatisfactory performance. The employing authority shall thereafter confer with the employee making specific recommendations as to areas of improvement in the employee's performance and endeavor to assist the employee in such performance. When any permanent certificated employee has received an unsatisfactory evaluation, the employing authority shall annually evaluate the employee until the employee achieves a positive evaluation or is separated from the district.

(b) Any evaluation performed pursuant to this article which contains an unsatisfactory rating of an employee's performance in

the area of teaching methods or instruction may include the requirement that the certificated employee shall, as determined necessary by the employing authority, participate in a program designed to improve appropriate areas of the employee's performance and to further pupil achievement and the instructional objectives of the employing authority.

(c) Hourly and temporary hourly certificated employees, other than those employed in adult education classes who are excluded by the provisions of Section 44660, and substitute teachers may be excluded from the provisions of this section at the discretion of the governing board.

SEC. 32. Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code is repealed.

SEC. 33. Article 2 (commencing with Section 44680) is added to Chapter 3.1 of Part 25 of the Education Code, to read:

Article 2. Local Staff Development and Teacher Education and Computer Centers

44680. As used in this article, "teacher education and computer centers" means those centers established by the Superintendent of Public Instruction to provide those functions previously provided by the state school resource centers and the professional development and program improvement centers.

44680.02. The Superintendent of Public Instruction, with the advice of the county superintendents of schools, shall establish 15 or more teacher education and computer centers in the state in such a manner as to provide staff development resources to all parts of the state.

44680.03. The purpose of the teacher education and computer centers is to provide staff development resources to teachers, administrators, other school personnel, and other persons providing services to schools. These staff development resources shall be provided in all areas of the curriculum, but especially in mathematics, science, technology, and other curriculum areas for which there are significant shortages of qualified, certificated teachers. The centers shall provide these resources in cooperation with institutions of higher education, business, and industry.

44680.04. The teacher education and computer centers shall serve the following functions:

(a) Provide training for classroom teachers and school staffs, including: (1) activities to promote the principal's ability to support instructional improvement and the teacher's ability to diagnose learning needs, (2) the development of program content, (3) the use of multiple instructional approaches, and (4) assessment of student outcomes.

(b) Provide assistance to school personnel developing site-based staff development programs including: (1) assessment of school staff development needs, (2) development of school staff development

plans, (3) training school personnel to train other school personnel, (4) cost-effective use of existing resources, (5) evaluation of local programs, and (6) the awarding of staff development program grants pursuant to Article 1 (commencing with Section 44670) of this chapter, and evaluation of their use.

(c) Provide computer demonstration and training sites where teachers are trained in: (1) the use of computers as teaching aids, (2) the criteria for school acquisition and use of computer equipment and software, and (3) the evaluation of computer-related materials.

44680.05. (a) The county superintendents of schools in each of the 15 regions which serve more than one county designated by the Superintendent of Public Instruction shall jointly designate a single county office of education to act as the local education agency for purposes of administering the regional teacher education and computer center's budget.

(b) The designated local education agency shall:

(1) Approve the center's budget for purposes of receiving and disbursing funds.

(2) Employ staff by contract for purposes of carrying out the center's functions.

44680.06. (a) The county superintendents of schools in each of the 15 regions which serve more than one county designated by the Superintendent of Public Instruction may jointly establish regional executive boards to serve as a forum for resolving problems and reviewing policy issues.

(b) Executive boards shall be composed of all county superintendents of schools within each region which chooses to establish a regional executive board.

(c) Executive boards may change the designation of the county office of education to act as the local education agency for the teacher education and computer center.

44680.07. The Superintendent of Public Instruction shall do all of the following:

(a) Designate the regions within the state to be served by teacher education and computer centers with the advice of the county superintendents of schools.

(b) Approve the plans of each center for staff development.

(c) Coordinate and facilitate communication among the centers by, among other things, making exemplary program models available to all centers.

(d) Authorize the allocation of funds to centers based on the approved plans. Funds appropriated or apportioned for purposes of this article in any fiscal year, may be expended in subsequent fiscal years.

(e) Report, by April 15 of each year, to the State Board of Education, the Legislature, and the Governor as to the effectiveness of the centers in providing, and assisting in, staff development.

(f) Provide for an educational software library and clearinghouse to assist the centers with software evaluation.

(g) Authorize centers to receive federal funding for any of their functions.

44680.08. The State Board of Education, in conjunction with the Superintendent of Public Instruction, shall adopt rules and regulations necessary to implement this article.

44680.09. Each teacher education and computer center shall be governed by a policy board of at least 12 members composed of the following:

(a) A majority of the board shall be composed of classroom teachers selected by teachers. Teacher representatives shall reflect the makeup of elementary and secondary teachers to be served by the center.

(b) Persons designated by the school districts served by the center, including at least one parent of an elementary or secondary pupil and at least one principal.

(c) At least one representative of institutions of higher education which maintain a department of education and which are located in, or adjacent to, the area served by the center selected by these institutions. In the event that more than one representative is selected, the additional representative or representatives shall not represent the same segment of postsecondary education.

(d) At least one representative of a business or industry, who, if feasible, shall be from a business or industry which utilizes, produces, or is otherwise involved with computer equipment and software.

44680.10. (a) Each policy board shall operate pursuant to guidelines established by the local education agency of the region which the teacher education and computer center serves and shall meet as necessary.

(b) Policy boards shall do all of the following:

(1) Determine program emphasis and direct and guide center staff to ensure that staff development services are generally available within the region.

(2) Select center staff, with the concurrence of the superintendent representing the center's local education agency, and contract for other needed services through the county office of education serving as the local education agency for the center.

(3) Offer opportunities for agencies and other parties to be heard at board meetings.

(4) Adopt bylaws to guide board meetings.

(5) Adopt a center budget and plan with the concurrence of the county office of education acting as the local education agency.

(c) Any actions taken by the policy boards shall be subject to all of the limitations imposed by law upon county offices of education.

44680.11. The Superintendent of Public Instruction, pursuant to the purposes set forth in Section 44680.03, may set aside money to fund exemplary projects in teacher education and computer centers which may include any of the following:

(a) Teacher training institutes in math and science, including but not limited to, retraining programs and summer institutes.

(b) Programs to encourage industry and business to exchange personnel and other resources with schools.

(c) Teacher training and parental involvement programs designed to maximize school and home use of educational technology for instructional purposes.

(d) Assistance to school districts located within the region in the development of educational technology plans, computer education plans, or proposals for reading, math, or science projects.

(e) Advice for postsecondary educational institutions located within the region which have received grants for the purpose of meeting the training needs of the region's teachers.

44680.12. Teacher education and computer centers may apply for exemplary project funding through the regular planning and budgeting cycle.

SEC. 34. The heading of Article 3 (commencing with Section 44681) of Chapter 3.1 of Part 25 of the Education Code is amended to read:

Article 3. Administrator Training and Evaluation

SEC. 35. Section 44682 of the Education Code is amended to read:

44682. (a) Any school district, county superintendent of schools, or consortium of those entities shall be eligible for funds in order to establish an administrator training and evaluation program, which shall provide to school administrators support and development activities designed to improve clinical supervision skills.

(b) In order to receive funding for an administrator training and evaluation program, a school district, county superintendent, or consortium shall:

(1) Develop a three-year plan for support and development activities, based on a systematic assessment of unmet needs of pupils and school personnel in the districts to be served.

(2) Operate the program in conjunction with the teacher education and computer center which serves the school district or county office of education or, in the case of a program operated by a consortium, operate the program in conjunction with one or more teacher education and computer centers which serves a school district or county office of education in the consortium.

SEC. 36. Section 44683 of the Education Code is amended to read:

44683. (a) The three-year plan developed pursuant to paragraph (1) of subdivision (b) of Section 44682 shall address, but need not be limited to, objectives identified pursuant to Sections 44670.4, 52014, and 52015, and the capacity of site and central district administrators to provide leadership necessary to do the following:

(1) Improve instructional, management, human development, and counseling skills.

(2) Ensure that curricula, instruction, and 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.

(3) Develop curricula and instructional materials in a wide variety of areas such as arts and humanities and physical, natural, and social sciences.

(4) Facilitate collaboration among the school staff, and among the staff and members of the school community, in planning, implementing, and evaluating the school program.

(5) Improve the school and classroom environment, including relationships between and among pupils, school personnel, and community members, including parents.

(6) Make available followup activities to assist participating individuals in using newly acquired skills on the job.

(b) Each three-year plan shall describe the following:

(1) General staff development objectives and steps necessary to achieve the objectives in subdivision (a), including intended outcomes.

(2) A proposed budget.

(3) Procedures for ongoing evaluation and modification of training activities, including evaluation on a continuing basis by participating administrators and outside personnel as necessary.

(c) Administrator training and evaluation programs shall be designed and implemented under the direction of participating school and district administrators, including the district administrators or administrators responsible for supervision of curriculum and instruction, and in cooperation with teacher training institutes. The programs shall allow for diversity in development activities, including, but not limited to, small groups, self-directed learning, and systematic observation during visits to other schools.

The district administrator or administrators responsible for curriculum and instruction, or other central district administrators shall be included as active participants in one or more staff development activities pursuant to this article whenever appropriate.

SEC. 37. Section 44684 of the Education Code is amended to read:

44684. Administrator training and evaluation programs shall set aside specific times throughout the school year to conduct programs. The times shall include, but not be limited to, periods when participating administrators are released from their regular duties.

SEC. 38. Section 44685 of the Education Code is amended to read:

44685. Any school district governing board, upon petition by a majority of the administrators designated to design an administrator training and evaluation program, may request the State Board of Education to grant a waiver of any provision of this article.

SEC. 39. Section 44687 of the Education Code is amended to read:

44687. The State Department of Education may provide technical assistance, at the request of any entity involved in establishing and implementing an administrator training and evaluation program. At the request of the Legislature, the

department shall assess the effectiveness of the training provided by administrator training and evaluation programs.

SEC. 40. Section 44688 of the Education Code is amended to read:

44688. (a) Federal and state funds appropriated or apportioned for the purposes of this article shall not be used to supplant funds currently expended by school districts for the purpose of administering or conducting staff development programs.

(b) Priority in funding shall be given to applicants who provide evidence of the following:

(1) Programs designed to strengthen clinical supervision skills of site administrators.

(2) Specific substantial district support to implement proposed administrator development activities.

(3) A high degree of collaborative planning of proposed activities among school principals, and between principals and central district administrators.

(4) A process to continue a high degree of collaboration among school principals and between principals and central district administrators in implementing, evaluating, and modifying development activities funded by this article and other state education programs.

(5) A direct relationship between proposed activities and specific school improvement goals developed pursuant to an existing or new process which involves principals, central district administrators, teachers, other school personnel, secondary students, and parents.

(c) Lowest funding priority shall be given to programs designed for the primary purpose of granting a degree or a credential to participating staff.

SEC. 41. Section 44689 of the Education Code is amended to read:

44689. It is the intent of the Legislature that the administrator training and evaluation programs be funded annually in each Budget Act.

SEC. 42. Chapter 3.15 (commencing with Section 44689.5) is added to Part 25 of the Education Code, to read:

CHAPTER 3.15. PILOT PROJECT FOR ADMINISTRATIVE PERSONNEL

44689.5. (a) Any county superintendent of schools or consortium of school districts may apply to the State Board of Education to establish a pilot project to assist selected school districts to recruit and select administrative personnel. The pilot project shall be funded annually in the Budget Act. The pilot project may do the following:

(1) Gather and organize information regarding effective techniques for selecting and evaluating management personnel.

(2) Serve as a clearinghouse for candidates and school districts.

(3) Assist school districts to evaluate candidates according to competencies prescribed by the districts, with particular attention to

supervision of curriculum and instruction.

(4) Conduct research regarding improved techniques for evaluating administrative talent.

(5) Train appropriate central district administrators in needs assessment and selection procedures used when hiring school principals and other administrative staff.

(b) In approving pilot projects, the State Board of Education shall attempt to achieve a balanced representation among urban, rural, and suburban areas throughout the state.

SEC. 43. Chapter 3.3 (commencing with Section 44700) is added to Part 25 of the Education Code, to read:

CHAPTER 3.3. CLASSROOM TEACHER INSTRUCTIONAL IMPROVEMENT PROGRAM

44700. It is the intent of the Legislature to provide funds to encourage teachers, whether acting individually or with other teachers, to improve the quality of instruction. Grants made pursuant to this chapter shall supplement, and not supplant, regular instructional activities.

44701. Any teacher eligible to receive an instructional improvement grant, or any group of eligible teachers, may submit a grant proposal to the grant committee established pursuant to Section 44702.

Each grant recipient shall be a permanent full-time teacher or mentor teacher whose primary duty is classroom instruction. Grant recipients shall not include any teachers in adult education programs, child care and development programs, or regional occupational centers or programs.

44702. (a) Any school district which applies to the Superintendent of Public Instruction for funding pursuant to this chapter shall establish an instructional improvement grant committee to review grant proposals and make recommendations to the governing board concerning awards of instructional improvement grants. The majority of the members of the committee shall be teachers meeting the requirements of Section 44701 and selected by the teachers of the district. The committee shall also include at least one principal selected by the district superintendent.

(b) The committee shall consider all instructional improvement grant proposals submitted by teachers or groups of teachers meeting the requirements of Section 44701. The committee shall recommend to the governing board of the district a plan for the allocation of the district's funding entitlement for purposes of this chapter, taking into account the areas in the district with greatest need for instructional improvement. The plan shall include the committee's recommendations for the funding of any grant proposal, and shall specify a grant amount not in excess of two thousand dollars ($2,000) per fiscal year for an individual recipient, or two thousand dollars ($2,000) per fiscal year for each eligible teacher participating in a

group proposal. The committee may recommend the award of grants for proposals which would continue for more than one fiscal year if the committee specifically finds there is a need to provide continued funding.

(c) The committee shall establish procedures for the evaluation of grant proposals and for the review of the use of grant funds by grant recipients.

(d) Members of the committee shall not receive compensation for participation in committee activities, except that teacher members may receive released time in order to attend meetings of the committee.

44703. (a) The governing board of any school district which applies to the Superintendent of Public Instruction for funding pursuant to this chapter shall review the recommendations of the grant committee and make the final decision on awards of grant funds for purposes of this chapter. The governing board shall award grants so as to improve instruction in those areas of the district with greatest need.

The governing board may award for any grant proposal submitted by an individual teacher any amount not in excess of two thousand dollars ($2,000) per fiscal year. The governing board may award for any grant proposal submitted by a group of teachers any amount not in excess of two thousand dollars ($2,000) per fiscal year for each eligible teacher in the group.

(b) The governing board shall certify to the Superintendent of Public Instruction the total amount of instructional improvement grants awarded each fiscal year, and may include a request for reimbursement for administrative costs of this chapter in an amount not to exceed 5 percent of the district's entitlement for funding computed pursuant to subdivision (b) of Section 44704.

44704. (a) On or before March 1 of each year, the State Department of Education shall report to the fiscal committee of each house of the Legislature the number of teachers eligible for instructional improvement grants, as specified in Section 44701, in each district for the then current fiscal year. It is the intent of the Legislature that the Budget Act for each fiscal year appropriate funds for purposes of this chapter in an amount equal to 5 percent of the number of teachers in each school district eligible to receive grants in that fiscal year, as specified in Section 44701, multiplied by two thousand dollars ($2,000).

(b) The Superintendent of Public Instruction shall compute each fiscal year for each school district, an entitlement equal to 5 percent of the number of teachers in the district eligible for grants, as specified in Section 44701, multiplied by two thousand dollars ($2,000). The superintendent shall apportion to each school district from funds appropriated for the purposes of this chapter in that fiscal year, the amount certified by the governing board pursuant to Section 44703, but not in excess of the district's entitlement.

In the event that, in any fiscal year, sufficient funds are not

appropriated to fully fund each school district requesting apportionments for purposes of this chapter, the superintendent shall reduce each district's apportionment on a pro rata basis.

44705. The provisions of this chapter shall become operative July 1, 1984.

SEC. 44. Chapter 3.4 (commencing with Section 44750) is added to Part 25 of the Education Code, to read:

CHAPTER 3.3. INNOVATIVE LOCAL EXPERIMENTS TO STRENGTHEN PERSONNEL AND MANAGEMENT

44750. The Legislature finds and declares:

(a) Experimentation and innovation are necessary to investigate and test the best methods for operating districts efficiently, and for recruiting and retaining high quality school personnel.

(b) Experiments are best engaged on a pilot project basis rather than mandated statewide in order to determine which ideas work best in each of the diverse school districts in the state.

(c) Projects are best engaged in an atmosphere of experimentation whereby ideas are judged on their merits and the successful can be separated from the unsuccessful.

(d) Projects should be evaluated by a team with expertise in schools, management, and personnel. The team shall include classroom teachers.

(e) The state should fund the marginal costs of projects.

44751. The Legislature intends that the pilot projects be designed to accomplish the following:

(a) Improve the efficiency of school district operations.

(b) Devise incentives for service in high-demand subject areas, geographic areas, or particular student needs.

(c) Improve on-the-job training of new personnel by permanent personnel.

(d) Improve the methods by which personnel are evaluated by their superiors and the usefulness, effectiveness, and importance of those evaluations.

44752. The Superintendent of Public Instruction shall approve a maximum of five pilot projects pursuant to this chapter in any fiscal year. The superintendent shall only approve a pilot project if he or she specifically finds that the project application was submitted with the express written consent of any bargaining unit affected.

44753. The decision to apply for and operate a pilot project pursuant to this chapter shall not be a matter within the scope of representation for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

44754. (a) The governing board of a school district may, on a districtwide basis or on behalf of one or more of its schools, after a public hearing on the matter, request the State Board of Education to waive all or part of Chapter 4 (commencing with Section 44800) of Part 25 for purposes of implementing a pilot project pursuant to

this chapter.

(b) The State Board of Education shall approve the request for the waiver only if the State Board of Education specifically finds that the governing board's request for the waiver was submitted with the express written consent of any bargaining unit affected and that the waiver is necessary to implement local pilot projects consistent with this chapter.

44755. This chapter shall remain in effect only until July 1, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, deletes or extends that date.

SEC. 45. Section 44830.3 is added to the Education Code, to read:

44830.3. (a) The governing board of any school district maintaining grades 9 to 12, inclusive, or maintaining grades 7 and 8 in a departmentalized junior high school. may employ persons authorized by the Commission on Teacher Credentialing to provide service as teacher trainees to provide instruction to pupils in those grades as a classroom teacher. Prior to employing any person as a teacher trainee, the governing board shall certify to the commission that insufficient fully credentialed teachers are available. The governing board shall require that each teacher trainee be assisted and guided by a certificated employee of the school district who has been designated by the governing board as a mentor teacher pursuant to the provisions of Article 4 (commencing with Section 44490) of Chapter 3 of this part.

(b) The governing board of each school district employing certificated teacher trainees shall develop and implement a professional development plan for each teacher trainee in consultation with an accredited institution of higher education offering an approved program of pedagogical preparation. The professional development plan shall include:

(1) Provisions for an annual evaluation of the teacher trainee.

(2) As the governing board determines necessary, a description of courses to be completed by the teacher trainee, if any, and a plan for the completion of preservice or other clinical training, if any, including student teaching.

(3) Any other criteria which may be required by the governing board.

(c) Upon completion of two years of service, the governing board may recommend to the Commission on Teacher Credentialing that the teacher trainee be credentialed in the manner prescribed by Section 44328.

SEC. 46. Section 44882 of the Education Code is amended to read:

44882. (a) Every employee of a school district of any type or class having an average daily attendance of 250 or more who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent

employee of the district.

This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

(b) Every employee of a school district of any type or class having an average daily attendance of 250 or more who, after having been employed by the district for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.

The governing board shall notify the employee, on or before March 15 of the employee's second complete consecutive school year of employment by the district in a position or positions requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position. In the event that the governing board does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

This subdivision shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

SEC. 47. Section 44884 of the Education Code is amended to read:

44884. At the discretion of the governing board of a district with 60,000 average daily attendance or more every employee of the district who, after having been employed by the district for two consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications may, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district. If such board is the governing board of more than one district it may exercise the discretionary power given it by this section in each district under its jurisdiction, whether or not each of such districts has 60,000 average daily attendance.

This section shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

SEC. 48. Section 44885.5 is added to the Education Code, to read:

44885.5. (a) Any school district maintaining grades 9 to 12, inclusive, or maintaining grades 7 and 8 in a departmentalized junior high school, shall classify as a probationary employee of the district any person while that person is employed as a teacher trainee pursuant to Section 44830.3 and any person who has completed two years of service in the district as a teacher trainee pursuant to Section 44830.3 and is reelected for the next succeeding school year to a position requiring certification qualifications.

The governing board may dismiss or suspend employees classified as probationary employees pursuant to this subdivision in accordance with the procedures specified in Section 44948.

(b) Every employee of a school district maintaining grades 9 to 12, inclusive, or maintaining grade 7 and 8 in a departmentalized junior high school, who, after having been employed as a probationary employee by the district for three complete consecutive school years, composed of two years of service as a teacher trainee pursuant to Section 44830.3 and one year in a position requiring certification qualifications, is reelected for the next succeeding year to a position requiring certification qualifications shall, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district.

The governing board shall notify the employee, on or before March 15 of the employee's third complete consecutive school year of employment by the district as a probationary employee, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position. In the event the governing board does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

SEC. 49. Section 44901 of the Education Code is amended to read:

44901. (a) A certificated employee who has served in a position or positions requiring certification qualifications in two or more districts, each having an average daily attendance of 250 or more and governed by governing boards of identical personnel, for a total of three complete consecutive school years, upon being elected for the fourth consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall at the commencement of the fourth consecutive school year be classified as a permanent employee of the last district in which he or she was employed prior to his or her election for the fourth consecutive school year.

Where there are two or more districts, each having an average daily attendance of 250 or more and governed by governing boards of identical personnel, a certificated employee who has served in one of the districts for three complete consecutive school years, upon being elected for the fourth consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall at the commencement of the fourth consecutive school year be classified as and become a permanent employee of the last district in which he or she was employed prior to his or her election for the fourth consecutive school year.

This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

(b) A certificated employee who has served in a position or positions requiring certification qualifications in two or more districts, each having an average daily attendance of 250 or more and governed by governing boards of identical personnel, for a total of two complete consecutive school years, upon being elected for the third consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall at the

commencement of the third consecutive school year be classified as a permanent employee of the last district in which he or she was employed prior to his or her election for the third consecutive school year.

Where there are two or more districts, each having an average daily attendance of 250 or more and governed by governing boards of identical personnel, a certificated employee who has served in one of the districts for two complete consecutive school years, upon being elected for the third consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall at the commencement of the third consecutive school year be classified as and become a permanent employee of the last district in which he or she was employed prior to his or her election for the third consecutive school year.

The governing board shall notify the employee, on or before March 15 of the employee's second complete consecutive school year of employment by the districts in a position or positions requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position. In the event that the governing board does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

This subdivision shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

SEC. 51. Section 44932 of the Education Code is amended to read:

44932. (a) No permanent employee shall be dismissed except for one or more of the following causes:

(1) Immoral or unprofessional conduct.

(2) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.

(3) Dishonesty.

(4) Incompetency.

(5) Evident unfitness for service.

(6) Physical or mental condition unfitting him to instruct or associate with children.

(7) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him.

(8) Conviction of a felony or of any crime involving moral turpitude.

(9) Violation of Section 51530 of this code or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(10) Violation of any provision in Sections 7001 to 7007, inclusive, of this code.

(11) Knowing membership by the employee in the Communist

Party.

(12) Alcoholism or other drug abuse which makes the employee unfit to instruct or associate with children.

(b) The governing board of a school district may suspend without pay for a specific period of time on grounds of unprofessional conduct a permanent certificated employee or, in a school district with an average daily attendance of less than 250 pupils, a probationary employee, pursuant to the procedures specified in Sections 44933, 44934, 44935, 44936, 44937, 44943, and 44944. This authorization shall not apply to any school district which has adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3543.2 of the Government Code.

SEC. 52. Section 44933 of the Education Code is amended to read:

44933. A permanent employee may be dismissed or suspended on grounds of unprofessional conduct consisting of acts or omissions other than those specified in Section 44932, but any such charge shall specify instances of behavior deemed to constitute unprofessional conduct. This section shall also apply to the suspension of probationary employees in a school district with an average daily attendance of less than 250 pupils.

SEC. 53. Section 44934 of the Education Code is amended to read:

44934. Upon the filing of written charges, duly signed and verified by the person filing them, with the governing board of the school district, or upon a written statement of charges formulated by the governing board, charging that there exists cause, as specified in Section 44932 or 44933, for the dismissal or suspension of a permanent employee of the district, the governing board may, upon majority vote, except as provided in this article if it deems the action necessary, give notice to the permanent employee of its intention to dismiss or suspend him or her at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article. Suspension proceedings may be initiated pursuant to this section only if the governing board has not adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3543.2 of the Government Code.

Any written statement of charges of unprofessional conduct or incompetency shall specify instances of behavior and the acts or omissions constituting the charge so that the teacher will be able to prepare his defense. It shall, where applicable, state the statutes and rules which the teacher is alleged to have violated, but it shall also set forth the facts relevant to each occasion of alleged unprofessional conduct or incompetency.

This section shall also apply to the suspension of probationary employees in a school district with an average daily attendance of less than 250 pupils which has not adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3542.2 of the Government Code.

SEC. 54. Section 44935 of the Education Code is amended to read:

44935. No report on the fitness of a teacher in a dismissal or

suspension proceeding initiated pursuant to Section 44934 shall be received from a statewide professional organization by a governing board unless the teacher shall have been given, prior to the preparation of the report in its final form, the opportunity to submit in writing his or her comments on the report and unless a copy of the report in final form is given to the teacher investigated at least 10 days prior to its submission to the board.

Such a report shall not be distributed other than to the governing board and those persons participating in its preparation, unless the teacher does not demand a hearing as provided by Section 44937.

SEC. 55. Section 44936 of the Education Code is amended to read:

44936. The notice of dismissal or suspension in a proceeding initiated pursuant to Section 44934 shall not be given between May 15th and September 15th in any year. It shall be in writing and be served upon the employee personally or by United States registered mail addressed to him at his last known address. A copy of the charges filed, containing the information required by Section 11503 of the Government Code, together with a copy of the provisions of this article, shall be attached to the notice.

SEC. 56. Section 44937 of the Education Code is amended to read:

44937. In a dismissal or suspension proceeding initiated pursuant to Section 44934, if the employee does not demand a hearing by filing a written request for hearing with the governing board, he or she may be dismissed or suspended without pay for a specific period of time at the expiration of the 30-day period.

SEC. 57. Section 44938 of the Education Code is amended to read:

44938. (a) The governing board of any school district shall not act upon any charges of unprofessional conduct unless at least 45 calendar days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the unprofessional conduct, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his or her faults and overcome the grounds for such charge. The written notice shall include the evaluation made pursuant to Article 11 (commencing with Section 44660) of Chapter 3 of this part, if applicable to the employee.

(b) The governing board of any school district shall not act upon any charges of incompetency unless it acts in accordance with the provisions of paragraph (1) or (2):

(1) At least 90 calendar days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the incompetency, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his or her faults and overcome the grounds for the charge. The written notice shall include the evaluation made pursuant to Article 11 (commencing with Section 44660) of Chapter 3, if applicable to the employee.

(2) The governing board may act during the time period composed of the last one-fourth of the schooldays it has scheduled for purposes of computing apportionments in any fiscal year if, prior to the beginning of that time period, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the incompetency, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his or her faults and overcome the grounds for the charge. The written notice shall include the evaluation made pursuant to Article 11 (commencing with Section 44660) of Chapter 3, if applicable to the employee.

(c) "Incompetency" as used in this section means, and refers only to, the incompetency particularly specified as a cause for dismissal in Section 44932 and does not include any other cause for dismissal specified in Section 44932.

"Unprofessional conduct" as used in this section means, and refers to, the unprofessional conduct particularly specified as a cause for dismissal or suspension in Sections 44932 and 44933 and does not include any other cause for dismissal specified in Section 44932.

SEC. 58. Section 44943 of the Education Code is amended to read:

44943. When any employee who has been served with notice pursuant to Section 44934 of the governing board's intention to dismiss or suspend him or her demands a hearing, the governing board shall have the option either (a) to rescind its action, or (b) schedule a hearing on the matter.

SEC. 59. Section 44944 of the Education Code is amended to read:

44944. (a) In a dismissal or suspension proceeding initiated pursuant to Section 44934, if 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. Notwithstanding any provision to the contrary, and except for the taking of oral depositions, no discovery shall occur later than 30 calendar days after the employee is served with a copy of the accusation pursuant to Section 11505 of the Government Code. 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 or

suspension 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:

(1) That the employee should be dismissed.

(2) That the employee should be suspended for a specific period of time without pay.

(3) That the employee should not be dismissed or suspended.

The decision of the Commission on Professional Competence that the employee should not be dismissed or suspended shall not be based on nonsubstantive procedural errors committed by the school district or governing board unless the errors are prejudicial errors.

The commission shall not have the power to dispose of the charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension pursuant to paragraph (2) shall be available only in a suspension proceeding authorized pursuant to subdivision (b) of Section 44932 or Section 44933.

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 or suspended, 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 or suspended, 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. 60. Section 44948 of the Education Code is amended to read:

44948. (a) Governing boards of school districts shall dismiss probationary employees during the school year for cause only, as in the case of permanent employees.

This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year or who are employed in a school district having an average daily attendance of less than 250 pupils.

(b) The governing board may suspend a probationary employee

for a specified period of time without pay as an alternative to dismissal pursuant to this section. This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

SEC. 61. Section 44948.3 is added to the Education Code, to read:

44948.3. (a) First and second year probationary employees may be dismissed during the school year for unsatisfactory performance determined pursuant to Article 11 (commencing with Section 44660) of Chapter 3, or for cause pursuant to Section 44932. Any dismissal pursuant to this section shall be in accordance with all of the following procedures.

(1) The superintendent of the school district or the superintendent's designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second year probationary employees. The notice shall include a statement of the reasons for the dismissal and notice of the opportunity to appeal. In the event of a dismissal for unsatisfactory performance, a copy of the evaluation conducted pursuant to Section 44664 shall accompany the written notice.

(2) The employee shall have 15 days from receipt of the notice of dismissal to submit to the governing board a written request for a hearing. The governing board may establish procedures for the appointment of a hearing officer to conduct the hearing and submit a recommended decision to the board. The failure of an employee to request a hearing within 15 days from receipt of a dismissal notice shall constitute a waiver of the right to a hearing.

(b) The governing board may suspend a probationary employee for a specified period of time without pay as an alternative to dismissal pursuant to this section.

(c) This section shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter, and shall not apply to probationary employees in a school district having an average daily attendance of less than 250 pupils.

SEC. 62. Section 44948.5 is added to the Education Code, to read:

44948.5. (a) This section shall apply only to (1) probationary employees of a school district with an average daily attendance of less than 250 pupils, or (2) those persons currently employed as probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

(b) No later than March 15 and before a probationary employee is given notice by the governing board that his or her services will not be required for the ensuing year for reasons other than those specified in Section 44955, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee, or, in the case of a district which has no superintendent, by the clerk or secretary of the governing board, that it has been recommended that such notice be given to the employee, and stating the reasons therefor.

If the probationary employee has been in the employ of the district for less than 45 days on March 15, the giving of such notice may be deferred until the 45th day of employment and all time period and deadline dates herein prescribed shall be coextensively extended.

Until the employee has requested a hearing as provided in subdivision (c) or has waived his or her right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged by any person, except as may be necessary in the performance of duties; however, the violation of this requirement of confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.

(c) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year. A request for a hearing shall be in writing and shall be delivered to the person who sent the notice pursuant to subdivision (b), on or before a date specified therein, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his or her failure to do so shall constitute a waiver of his or her right to a hearing. The notice provided for in subdivision (b) shall advise the employee of the provisions of this subdivision.

(d) In the event a hearing is requested by the employee, the proceeding shall be 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 and the governing board shall have all the power granted to an agency therein, except that: (1) the respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of such five-day period for filing in the accusation; (2) the discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate; and (3) the hearing shall be conducted by a hearing officer who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the hearing officer shall be binding on the governing board. Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors. Copies of the proposed decision shall be submitted to the governing board

and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the hearing officer, shall be paid by the governing board from the district funds. 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.

(e) The governing board's determination not to reemploy a probationary employee for the ensuing school year shall be for cause only. The determination of the governing board as to the sufficiency of the cause pursuant to this section shall be conclusive, but the cause shall relate solely to the welfare of the schools and the pupils thereof. The decision made after the hearing shall be effective on May 15 of the year the proceeding is commenced.

(f) Notice to the probationary employee by the governing board that his or her service will not be required for the ensuing year, shall be given no later than May 15.

(g) If a governing board notifies a probationary employee that his or her services will not be required for the ensuing year, the board shall, within 10 days after delivery to it of the employee's written request, provide the employee with a statement of its reasons for not reemploying him or her for the ensuing school year.

(h) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.

(i) In the event that the governing board does not give notice provided for in subdivision (e) of this section on or before May 15, the employee shall be deemed reemployed for the ensuing school year.

(j) If after request for hearing pursuant to subdivision (c) any continuance is granted pursuant to Government Code Section 11524, the dates prescribed in subdivisions (d), (e), (f), and (i) which occur on or after the date of granting the continuance shall be extended for a period of time equal to the continuance.

SEC. 63. Section 44949 of the Education Code is amended to read:

44949. (a) No later than March 15 and before an employee is given notice by the governing board that his or her services will not be required for the ensuing year for the reasons specified in Section 44955, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee, or in the case of a district which has no superintendent by the clerk or secretary of the governing board, that it has been recommended that such notice be given to the employee, and stating the reasons therefor.

Until the employee has requested a hearing as provided in subdivision (b) or has waived his or her right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged by any person, except as may be necessary in the performance of duties; however, the violation of this requirement of

confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.

(b) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year. A request for a hearing shall be in writing and shall be delivered to the person who sent the notice pursuant to subdivision (a), on or before a date specified therein, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his or her failure to do so shall constitute his or her waiver of his or her right to a hearing. The notice provided for in subdivision (a) shall advise the employee of the provisions of this subdivision.

(c) In the event a hearing is requested by the employee, the proceeding shall be 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 and the governing board shall have all the power granted to an agency therein, except that: (1) the respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of such five-day period for filing in the accusation; (2) the discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate; and (3) the hearing shall be conducted by a hearing officer who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the hearing officer shall be binding on the governing board. Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the hearing officer, shall be paid by the governing board from the district funds. 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.

(d) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid

and addressed to the last known address of the employee.

(e) If after request for hearing pursuant to subdivision (b) any continuance is granted pursuant to Government Code Section 11524, the dates prescribed in subdivision (c) which occur on or after the date of granting the continuance shall be extended for a period of time equal to such continuance.

SEC. 65. Section 44955 of the Education Code is amended to read:

44955. (a) No permanent employee shall be deprived of his or her position for causes other than those specified in Sections 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.

(b) 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, whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, or whenever the amendment of state law requires the modification of curriculum, and when in the opinion of the governing board of the district it shall have become necessary by reason of any of these conditions to decrease the number of permanent employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the certificated employees of the district, permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, 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.

(c) Notice of such termination of services 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. However, prior to assigning or reassigning any certificated employee to teach a subject which he or she has not previously taught, for which he or she does not have a teaching credential, or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(d) Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:

(1) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess.

(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

SEC. 65.5. Section 44955.5 is added to the Education Code, to read:

44955.5. During the time period between five days after the enactment of the Budget Act and August 15 of the fiscal year to which that Budget Act applies, if the governing board of a school district determines that its total revenue limit per unit of average daily attendance for the fiscal year of that Budget Act has not increased by at least 2 percent, and if in the opinion of the governing board it is therefore necessary to decrease the number of permanent employees in the district, the governing board may terminate the services of certificated employees of the district, permanent as well as probationary, pursuant to the provisions of Section 44955 but, notwithstanding anything to the contrary in Section 44955, in accordance with a schedule of notice and hearing adopted by the governing board.

SEC. 66. Section 44956 of the Education Code is amended to read:

44956. (a) Any permanent employee whose services have been

terminated as provided in Section 44955 shall have the following rights:

(1) For the period of 39 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, in the order of original employment as determined by the board in accordance with the provisions of Sections 44831 to 44855, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service; provided, that no probationary or other employee with less seniority shall be employed to render a service which said employee is certificated and competent to render. However, prior to reappointing any employee to teach a subject which he or she has not previously taught, for which he or she does not have a teaching credential, or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(2) The aforesaid right to reappointment may be waived by the employee, without prejudice, for not more than one school year, unless the board extends this right, but such waiver shall not deprive the employee of his right to subsequent offers of reappointment.

(3) Notwithstanding paragraph (1), a school district may deviate from reappointing a certificated employee in order of seniority for either of the following reasons:

(A) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the employee has special training and experience necessary to teach that course or course of study, or to provide those services, which others with more seniority do not possess.

(B) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

(4) As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination, but the period of his absence shall not count as a part of the service required for retirement.

(5) During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, be offered prior opportunity for substitute service during the absence of any other employee who has been granted a leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon the return to duty of said other employee and that said substitute service shall not affect the retention of his

previous classification and rights. If, in any school year the employee serves as a substitute in any position requiring certification for any 21 days or more within a period of 60 schooldays, the compensation the employee receives for substitute service in that 60-day period, including his or her first 20 days of substitute service, shall be not less than the amount the employee would receive if he or she were being reappointed.

(6) During the period of the employee's preferred right to reappointment, the governing board of the district, if it is also the governing board of one or more other districts, may assign him to service, which he is certificated and competent to render, in said other district or districts; provided, that the compensation he receives therefor may in the discretion of the governing board be the same as he would have received had he been serving in the district from which his services were terminated, that his service in the said other district or districts shall be counted toward the period required for both state and local retirement, as defined by Section 22102, as though rendered in the district from which his services were terminated, and that no permanent employee in said other district or districts shall be displaced by him.

It is the intent of this subsection that the employees of a school district, the governing board of which is also the governing board of one or more other school districts, shall not be at a disadvantage as compared with employees of a unified school district.

(7) At any time prior to the completion of one year after his return to service, he may continue or make up, with interest, his own contributions to any state or district retirement system, for the period of his absence, but it shall not be obligatory on state or district to match such contributions.

(8) Should he become disabled or reach retirement age at any time before his return to service, he shall receive, in any state or district retirement system of which he was a member, all benefits to which he would have been entitled had such event occurred at the time of his termination of service, plus any benefits he may have qualified for thereafter, as though still employed.

SEC. 67. Section 44956.5 is added to the Education Code, to read:

44956.5. For a certificated employee initially employed in an administrative position on or after July 1, 1983, who transfers to a teaching position, the period of employment in the administrative position shall not be included in determining seniority for purposes of Sections 44955 and 44956, except for school site administrators who shall earn up to a maximum of three years seniority while serving as site administrators.

SEC. 68. Section 44957 of the Education Code is amended to read:

44957. Any probationary employee whose services have been terminated as provided in Section 44955 shall have the following rights:

(a) For the period of 24 months from the date of such termination, any employee who in the meantime has not attained the age of 65

years shall have the preferred right to reappointment, subject to the prior rights to reappointment by all permanent employees as set forth in Section 44956, in the order of original employment as determined by the governing board in accordance with the provisions of Sections 44831 to 44855, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service. Except as otherwise provided, no probationary or temporary employee with less seniority shall be employed to render a service which such employee is certificated and competent to render and provided that such an employee shall be given a priority over employees whose right to a position is derived pursuant to Section 44918. However, prior to reappointing any employee to teach a subject which he or she has not previously taught, for which he or she does not have a teaching credential, or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(b) Notwithstanding subdivision (a), a school district may deviate from reappointing a probationary employee in order of seniority for either of the following reasons:

(1) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the employee has special training and experience necessary to teach that course or course of study, or to provide those services, which others with more seniority do not possess.

(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

(c) As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination; provided, however, that the period of his absence shall not be counted as a part of the service required for attaining permanent status in the district or, except as provided in subdivision (c), for retirement purposes.

(d) During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, and subject to the rights of permanent employees as set forth in Section 44956, be offered prior opportunity for substitute service during the absence of any other employee who has been granted leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon a return to duty of such other employee, that such substitute service shall not affect the retention

of his previous classification and rights, and that such an employee shall be given a priority over employees whose right to a substitute position is derived pursuant to Section 44918.

(e) At any time prior to the completion of one year after his return to service, an employee reappointed under the provisions of this section may elect to continue or to reinstate his membership and interest in any state or district retirement system and to receive retirement benefits as if no absence from service had occurred. In the event of such election the employee shall pay into the retirement system the amount of his share of contribution and the district's share of contribution attributable to the period of absence and the amount of any contributions withdrawn, plus interest.

SEC. 69. Section 45023.4 is added to the Education Code, to read:

45023.4. (a) The governing board of any school district may, in the 1983–84, 1984–85, or 1985–86 fiscal years, increase, for teachers meeting the requirements specified herein, the salary on its adopted certificated employee salary schedule for the then current fiscal year as specified in subdivision (b). For purposes of this section, any teacher for whom the governing board may increase salaries shall meet all of the following criteria:

(1) Hold a valid California teaching credential.

(2) Possess a baccalaureate or higher degree.

(3) Receive a salary paid from the general fund of the district.

(b) The governing board shall perform the following computations:

(1) The governing board shall compute an amount equal to the amount of the lowest salary on the salary schedule for a certificated employee meeting the criteria in subdivision (a) for the then current fiscal year multiplied by 1.10 but not to exceed an annual salary of eighteen thousand dollars ($18,000) in the 1983–84 school year, adjusted in the 1984–85 and 1985–86 school years by the same percentage increase made in base revenue limits for a unified school district with over 1,500 units of average daily attendance.

(2) The governing board shall increase to the amount computed in paragraph (1) the salary of any certificated employee meeting the criteria in subdivision (a) whose salary on the salary schedule for the then current fiscal year is less than the amount computed in paragraph (1).

(c) Each school district which increases salaries pursuant to subdivision (b) shall receive reimbursement for the cost of the increase as follows:

(1) Total the salaries of all certificated employees receiving increased salaries pursuant to subdivision (b).

(2) Total all salaries, based on the salary schedule for the then current fiscal year, of all certificated employees receiving increased salaries pursuant to subdivision (b).

(3) Subtract the amount in paragraph (2) from the amount in paragraph (1).

(4) Multiply the amount in paragraph (3) by the district's State

Teachers' Retirement System contribution rate.

(5) In the then current fiscal year, the revenue limit of the district calculated pursuant to Section 42238 may be increased by an amount equal to the sum of the amounts in paragraphs (3) and (4).

(6) For the 1984–85, 1985–86, and 1986–87 fiscal years, any school district which received reimbursement pursuant to this subdivision in the prior fiscal year shall divide the amount added to the revenue limit of the district pursuant to paragraph (5) by the district's regular average daily attendance for the prior fiscal year, and shall add that quotient to the district's base revenue limit per unit of average daily attendance for the then current fiscal year.

(d) A school district shall receive reimbursement pursuant to subdivision (c) only if it certifies to the Superintendent of Public Instruction that the increase of teachers' salaries pursuant to this section does not require the district to increase the salaries of other teachers.

SEC. 70. Section 45100.5 is added to the Education Code, to read:

45100.5. (a) The governing board of a school district may adopt a resolution designating certain positions as senior management of the classified service. Notwithstanding the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the decision of the governing board shall not be deemed a matter subject to negotiation, but shall be subject to review by the Public Employment Relations Board.

(b) Employees whose positions are designated as senior management of the classified service shall be a part of the classified service and shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in a senior management position.

(c) Notice of reassignment or dismissal from a position in the senior management of the classified service shall be provided in accordance with the provisions of Section 35031.

SEC. 71. Section 45104.5 is added to the Education Code, to read:

45104.5. The governing board of a school district may adopt a resolution abolishing any or all positions of the senior management of the classified service. An employee occupying a senior management position abolished by the action shall become a member of the classified or certificated service in a position to which he or she would otherwise be entitled if the employee had not been a member of the senior management of the classified service.

If the employee in the senior management of the classified service had been a member of the regular classified or certificated service, he or she shall be entitled to a position which is the same as, or similar to, the position to which he or she holds rights outside of the senior management of the classified service.

SEC. 72. Section 45108.5 is added to the Education Code, to read:

45108.5. (a) Senior management employee means either of the following:

(1) An employee in the highest position in a principal district program area, as determined by the governing board, which does not require certification qualifications, and which has districtwide responsibility for formulating policies or administering the program area.

(2) An employee who acts as the fiscal advisor to the district superintendent.

(b) The maximum number of positions which may be designated as senior management positions shall be as follows:

(1) For districts with less than 10,000 units of average daily attendance, two positions.

(2) For districts with 10,000 to 25,000 units of average daily attendance, inclusive, three positions.

(3) For districts with 25,001 to 50,000 units of average daily attendance, inclusive, 4 positions.

(4) For districts with more than 50,000 units of average daily attendance, 5 positions.

(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), as well as to districts which have not adopted the merit system.

SEC. 73. Section 45108.7 is added to the Education Code, to read:

45108.7. The governing board of a school district may apply to the State Board of Education to waive the provisions of Section 45108.5 for purposes of expanding the number and type of senior management positions.

SEC. 74. Section 45256.5 is added to the Education Code, to read:

45256.5. (a) The governing board of a school district may adopt a resolution designating certain positions as senior management of the classified service. Notwithstanding the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the decision of the governing board shall not be deemed a matter subject to negotiation, but shall be subject to review by the Public Employment Relations Board.

(b) Employees whose positions are designated as senior management of the classified service shall be a part of the classified service and shall be afforded all rights, benefits, and burdens of other classified employees, except that they shall be exempt from all provisions relating to obtaining permanent status in a senior management position.

(c) Positions in the senior management of the classified service shall be filled from an unranked list of eligible persons who have demonstrated managerial ability who have been found qualified for the positions as specified by the district superintendent and determined by the personnel commission.

(d) Notice of reassignment or dismissal from a position in the senior management of the classified service shall be provided in accordance with the provisions of Section 35051.

SEC. 75. Section 46142 of the Education Code is amended to read:

46142. The minimum schoolday in any junior high school or high school described in Section 46141 may be computed by determining the number of minutes of attendance in any 2 consecutive schooldays and dividing that number by 2. If the resulting quotient is 240 or more, the pupils shall be deemed to have complied with Section 46141, even if the number of minutes attended in any one schoolday is less than 240, but not less than 180.

No computation authorized by this section shall result in any increase in state apportionments.

No computation authorized by this section in the 1983–84 fiscal year or any fiscal year thereafter shall interfere with a collective bargaining agreement regarding staff development time in effect for the 1983–84 fiscal year. This limitation shall remain in effect only until the expiration date of the collective bargaining agreement.

SEC. 76. Section 46144 of the Education Code is amended to read:

46144. The minimum day in special day or Saturday vocational training programs and for pupils enrolled in a work experience education program approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 is 180 minutes. However, the attendance of pupils enrolled in a work experience education program approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 shall not be counted for purposes of apportionments unless the work experience education program includes at least one hour per week of classroom instruction or counseling.

SEC. 77. Section 46145 of the Education Code is repealed.

SEC. 78. Section 46145 is added to the Education Code, to read:

46145. Pupils in grade 12 shall be enrolled in at least five courses each semester or the equivalent number of courses per quarter.

However, this requirement shall not apply to pupils enrolled in regional occupational programs, regional occupational centers, community college courses, independent study, special education programs where the pupil's individualized education program establishes a different number of courses, continuation education classes, work experience education programs approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, or any other course of study authorized by the governing board which is equivalent to the approved high school course of study.

SEC. 79. Section 46147 of the Education Code is amended to read:

46147. Notwithstanding the 180-minute minimum day requirement of Section 46144, the governing board of any school district may permit a 12th-grade pupil in his or her last semester or quarter, as the case may be, before graduation, who is enrolled in a work experience education program approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 and who would complete all of the requirements for graduation by attending high school, except courses of physical education, for less than 180 minutes each day, to attend high school for less than a

minimum day of 180 minutes, upon the written request of a parent or legal guardian or upon his or her own request if the pupil is 18 years of age or over. If a pupil attends classes for less than 180 minutes per day pursuant to this section, the number of minutes actually attended per day shall be rounded down to the nearest multiple of 60. The average daily attendance allowed for that pupil's attendance shall bear the same proportion to one day of attendance as the number of minutes of attendance per day bears to 180.

SEC. 80. Article 8 (commencing with Section 46200) is added to Chapter 2 of Part 26 of the Education Code, to read:

Article 8. Incentives for Longer Instructional Day and Year

46200. (a) In the 1984–85 fiscal year, for each school district which certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year, the Superintendent of Public Instruction shall apportion thirty-five dollars ($35) per unit of average daily attendance, exclusive of adult average daily attendance and average daily attendance for pupils attending summer school. A year-round school shall be deemed to be in compliance with the 180-day requirement if it certifies to the Superintendent of Public Instruction that it is a year-round school and maintains its school for five more days, or the equivalent thereof, than maintained in the 1982–83 fiscal year. Each school district which received an apportionment pursuant to this subdivision in the 1984–85 fiscal year shall add thirty-five dollars ($35) to the district's base revenue limit per unit of average daily attendance for the 1985–86 fiscal year.

(b) For any school district which received an apportionment pursuant to subdivision (a) and which offers less than 180 days of instruction in the 1985–86 fiscal year or any fiscal year thereafter, and which does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201 for that fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for that fiscal year by an amount attributable to the increase received pursuant to subdivision (a), as adjusted in fiscal years subsequent to the 1984–85 fiscal year.

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district which certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision, the Superintendent of Public Instruction shall apportion twenty dollars ($20) per unit of average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars ($40) per unit of average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative school, regional occupational centers and programs, continuation high schools, or opportunity schools, and the

attendance of pupils while participating in community college or independent study programs.

(1) In the 1984–85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(2) In the 1985–86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(3) In the 1986–87 fiscal year:

(A) 36,000 minutes in kindergarten.

(B) 50,400 minutes in grades 1 to 3, inclusive.

(C) 54,000 minutes in grades 4 to 8, inclusive.

(D) 64,800 minutes in grades 9 to 12, inclusive.

(b) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982–83 fiscal year, the 1982–83 fiscal year number of minutes for that grade level shall instead be the requirement for the purposes of subdivision paragraphs (1), (2), and (3) of (a).

(c) Each school district which receives an apportionment pursuant to subdivision (a) in a fiscal year shall, in the subsequent fiscal year, add the amount received per pupil to the district's base revenue limit per unit of average daily attendance.

(d) For any school district which receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to subdivision (c), as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986–87 fiscal year or any fiscal year thereafter, the Superintendent of Public

Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year base revenue limit per unit of average daily attendance pursuant to subdivision (c), as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987–88 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to subdivision (c), as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

46202. In any fiscal year, if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982–83 fiscal year, the Superintendent of Public Instruction shall in that fiscal year reduce that district's apportionment by the average percentage increase in the base revenue limit for districts of similar type and size, multiplied by the district's units of average daily attendance.

46203. Amounts apportioned to school districts pursuant to this article shall supplement, and not supplant, apportionments received pursuant to any other provision of law.

46204. The Superintendent of Public Instruction shall reduce the time periods specified in Sections 46200 and 46201 to the extent that the superintendent determines that insufficient funds are available to fund the per pupil amounts prescribed by those sections.

SEC. 81. Article 7 (commencing with Section 48070) is added to Chapter 1 of Part 27 of the Education Code, to read:

Article 7. Promotion and Retention

48070. The governing board of each school district and each county superintendent of schools shall adopt policies regarding pupil promotion and retention. A pupil shall be promoted or retained only as provided in the policies adopted pursuant to this article.

SEC. 82. Section 48260.5 is added to the Education Code, to read:

48260.5. (a) Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian, by first-class mail or other reasonable means, of the following:

(1) That the pupil is truant.

(2) That the parent or guardian is obligated to compel the attendance of the pupil at school.

(3) That parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to

Article 6 (commencing with Section 48290) of Chapter 2 of Part 27.

(b) The district also shall inform parents or guardians of the following:

(1) Alternative educational programs available in the district.

(2) The right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

SEC. 83. Section 48430 of the Education Code is amended to read:

48430. It is the intent of the Legislature that continuation education schools and classes shall be established and maintained to provide all of the following:

(1) An opportunity for pupils to complete the required academic courses of instruction to graduate from high school.

(2) A program of instruction which emphasizes occupational orientation or a work-study schedule and offers intensive guidance services to meet the special needs of pupils.

(3) A program designed to meet the educational needs of each pupil, including, but not limited to, independent study, regional occupation programs, work study, career counseling, and job placement services, as a supplement to classroom instruction.

SEC. 84. Section 48431.6 is added to the Education Code, to read:

48431.6. The governing board of each district maintaining high schools and accepting funds made available for purposes of this section shall establish and maintain a program which ensures that each pupil, upon reaching the age of 16 or prior to the end of the 10th grade, whichever occurs first, has received a systematic review of his or her academic progress and counseling regarding the educational options available to the pupil during the final two years of high school. The program shall be adopted at a public meeting of the governing board, and shall include, but not be limited to, all of the following:

(a) Provision for individualized review of the pupil's academic and deportment records.

(b) Provision for a meeting with the pupil, and where feasible, with the pupil's parent or guardian, to explain the pupil's record, the educational options available to the pupil, the course work and academic progress needed for satisfactory completion of high school, and the effect of such course work and academic progress upon the pupil's options for postsecondary education and employment. Educational options shall include, but not be limited to, regional occupational centers and programs, continuation schools, academic programs, and any other alternatives available to pupils of the district.

(c) Provision for services of teachers, counselors, and others designated by the governing board to provide the individualized review and assistance to pupils pursuant to subdivisions (a) and (b). To the maximum extent feasible, regional occupational center or program counselors shall actively participate in, and the local business community shall be involved in, career guidance activities.

The program shall give first priority to identifying pupils who are

not earning credits at a rate which will enable them to graduate with the rest of their class, and to providing these pupils with counseling services funded pursuant to Section 48431.7.

SEC. 85. Section 48431.7 is added to the Education Code, to read:

48431.7. Funds appropriated for purposes of Section 48431.6 shall supplement, and shall not supplant, existing funding for counseling services. Out of funds appropriated for those purposes, the Superintendent of Public Instruction shall apportion twenty dollars ($20) per prior year's enrollment in grade 10 to each school district which has adopted a program pursuant to Section 48431.6.

SEC. 86. Section 48438 of the Education Code is amended and renumbered to read:

48443. (a) The governing board of a school district maintaining continuation education high school classes shall evaluate its continuation education program and annually report its findings to the Superintendent of Public Instruction.

(b) The evaluation report shall include information on the number of pupils served, the costs of the program, attendance patterns, dropout rates, the capability of the schools or programs to graduate youths, and involvement of pupils in occupational training programs.

(c) These evaluation reports shall be sent to the Superintendent of Public Instruction on or before August 1 following the end of the academic year in which the tests were administered, and shall be reviewed annually by persons designated by the superintendent who are not employed by the district operating the program under review.

(d) Every two years, on or before December 1, the superintendent shall summarize the evaluation reports received pursuant to subdivision (c) and submit appropriate recommendations based upon that summary to the Governor, the Legislature, and the districts maintaining continuation high school classes.

SEC. 87. Section 48438 is added to the Education Code, to read:

48438. It is the intent of the Legislature that special funds for eligible pupils be expended by the continuation schools in which those pupils are enrolled.

State and federal categorical funds shall be allocated to continuation schools in the same manner as to comprehensive schools to the maximum extent permitted by state and federal laws and regulations.

SEC. 88. Section 48440 is added to the Education Code, to read:

48440. (a) Expenditures and incomes for continuation schools shall be reported annually to the State Department of Education.

(b) Incomes reported shall include, but not be limited to, revenue limit funds and special federal and state funds.

(c) Expenditures reported shall include, but not be limited to, personnel costs, facility costs, equipment, operating expenses, administrative costs, transportation, and material costs.

SEC. 89. Article 2.3 (commencing with Section 48643) is added to Chapter 4 of Part 27 of the Education Code, to read:

Article 2.3. Reimbursement for Increasing Availability of Opportunity Classes and Programs

48643. It is the intent of the Legislature in enacting this article to increase the availability of opportunity classes and programs operated pursuant to Article 2 (commencing with Section 48630) of this chapter for pupils enrolled in grades 7 to 9, inclusive.

48643.5. Upon application to the Superintendent of Public Instruction, the governing board of any school district which maintains opportunity classes or programs for pupils enrolled in grades 7 to 9, inclusive, shall be eligible to receive reimbursement pursuant to Section 48644 for those costs of increasing the availability of such classes or programs which are in excess of reimbursements provided in the regular apportionment to the school district.

48644. (a) Beginning with the 1984–85 fiscal year, and each fiscal year thereafter, the Superintendent of Public Instruction shall, on a priority basis, allocate to each school district which is eligible under Section 48643.5 and which meet the requirements of subdivision (b) an amount not to exceed four hundred dollars ($400) per pupil for each additional pupil enrolled in the opportunity classes or programs maintained by the district for grades 7 to 9, inclusive, over the number of pupils so enrolled in the 1982–83 fiscal year.

(b) In order to receive reimbursement pursuant to subdivision (a), a school district shall do all of the following:

(1) Demonstrate that the increased opportunity programs or classes will be operated in compliance with law and for the purpose of returning pupils to the regular educational program of the district.

(2) Demonstrate the need for funds allocated pursuant to subdivision (a) and the purposes for which the funds will be used.

(3) Demonstrate that the instructional and counseling services provided by the increased opportunity programs or classes will result in costs in excess of reimbursement provided in the regular apportionment to the school district.

48644.3. The State Department of Education shall evaluate the program established pursuant to this article and report its findings to the Legislature on or before June 30, 1987.

48644.5. The provisions of this article shall become operative July 1, 1984.

SEC. 90. Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of the Education Code is repealed.

SEC. 91. Article 1 (commencing with Section 48900) is added to Chapter 6 of Part 27 of the Education Code, to read:

Article 1. Suspension or Expulsion

48900. A pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has:

(a) Caused, attempted to cause, or threatened to cause physical injury to another person.

(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, except as provided in Section 48901.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11364 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

No pupil shall be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

48900.5. Suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a pupil may be suspended for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons or property threatens to disrupt the instructional process.

48901. (a) The governing board of any school district maintaining a high school may adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a high school or while under the authority of school personnel by pupils of the high school. However, those rules and regulations shall not permit pupils to smoke in any classroom or other enclosed facility which any student is required to occupy or which is customarily occupied by nonsmoking students.

(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

48902. The principal of a school or the principal's designee shall, prior to the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the student which may be violative of Section 245 of the Penal Code.

48903. Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of schooldays for which the pupil may be suspended shall not exceed 30 days in any school year.

48904. (a) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by or performing volunteer services for a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed five thousand dollars ($5,000). The parent or guardian shall also be liable for the amount of any reward not exceeding five thousand dollars ($5,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property

belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the district or private school authorized to make the demand.

(b) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee or the district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a).

The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

48905. An employee of a school district whose person or property is injured or damaged by the willful misconduct of a pupil who attends school in such district, when the employee or the employee's property is (1) located on property owned by the district, (2) being transported to or from an activity sponsored by the district or a school within the district, (3) present at an activity sponsored by such district or school, or (4) otherwise injured or damaged in retaliation for acts lawfully undertaken by the employee in execution of the employee's duties, may request the school district to pursue legal action against the pupil who caused the injury or damage, or the pupil's parent or guardian pursuant to Section 48904.

48906. When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken.

48907. Students of the public schools shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, the wearing of buttons, badges, and other insignia, and the right of expression in official publications, whether or not such publications or other means of expression are supported

financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

Each governing board of a school district and each county board of education shall adopt rules and regulations in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its respective jurisdiction.

Student editors of official school publications shall be responsible for assigning and editing the news, editorial, and feature content of their publications subject to the limitations of this section. However, it shall be the responsibility of a journalism adviser or advisers of student publications within each school to supervise the production of the student staff, to maintain professional standards of English and journalism, and to maintain the provisions of this section.

There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section. School officials shall have the burden of showing justification without undue delay prior to any limitation of student expression under this section.

"Official school publications" refers to material produced by students in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

Nothing in this section shall prohibit or prevent any governing board of a school district from adopting otherwise valid rules and regulations relating to oral communication by students upon the premises of each school.

48908. All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

48909. When a petition is requested in juvenile court or a complaint filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

48910. (a) A teacher may suspend any pupil from the teacher's class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the principal's designee for appropriate

action. If that action requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor or a school psychologist shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the principal's designee for consideration of a suspension from the school.

48911. (a) The principal of the school, the principal's designee, or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

(b) Suspension by the principal, the principal's designee, or the superintendent shall be preceded by an informal conference which is conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher or supervisor or school employee who referred the pupil to the principal or the principal's designee or the superintendent of schools. At the conference the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal or the principal's designee or the superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal or the principal's designee or the superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the superintendent to constitute a clear and present danger to the lives, safety, or health of pupils or school personnel. If a pupil is suspended without a conference prior to suspension, both the parent and the pupil shall be notified of the pupil's right to a conference, and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil

is physically able to return to school for the conference.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Within one schoolday of the beginning of a suspension, a school employee shall mail a notice to the parent or guardian of the suspended pupil. The notice shall be, insofar as is practicable, in the primary language of the pupil's parent or guardian. The notice shall contain each of the following:

(1) A statement of the facts leading to the decision to suspend.

(2) The date and time when the pupil will be allowed to return to school.

(3) A statement of the right of the pupil or parent to request a meeting with the superintendent or the superintendent's designee pursuant to Section 48904.

(4) A statement of the parent's or the pupil's right to have access to the pupil's records as provided by Section 49069.

(5) A request that the parent or guardian attend a conference with school officials regarding the pupil's behavior, including notice that state law requires parents or guardians to respond to such request without delay.

(e) A school employee shall report the suspension of the pupil, including the cause therefor, to the governing board of the school district or to the district superintendent in accordance with the regulations of the governing board.

(f) The parent or guardian of any pupil shall respond without delay to any request from school officials to attend a conference regarding his or her child's behavior.

No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at such conference.

(g) In a case where expulsion from any school or suspension for the balance of the semester from continuation school is being processed by the governing board, the school district superintendent or other person designated by the superintendent in writing may extend the suspension until such time as the governing board has rendered a decision in the action. However, an extension may be granted only if the superintendent or the superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

(h) For the purposes of this section, a "principal's designee" is an

administrator, or if there is not a second administrator at the school site, a certificated person, specifically designated by the principal, in writing, to assist with disciplinary procedures. The principal may designate only one such person at a time as the principal's primary designee for the school year. The name of such person shall be on file in the principal's office.

A second person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for the purposes of this article when both the principal and the principal's primary designee are absent from the school site. The name of the person shall be on file in the principal's office.

48912. (a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of schooldays within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the written notice of the board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

48912.5. The governing board of a school district may suspend a pupil enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts enumerated in Section 48900 occurred. The suspension shall meet the requirements of Section 48915.

48913. The teacher of any class from which a pupil is suspended may require the suspended pupil to complete any assignments and tests missed during the suspension.

48914. (a) If suspension is ordered by a principal or a principal's designee pursuant to Section 48903, the pupil or the pupil's parent or guardian shall have the right to request a meeting with the superintendent or the superintendent's designee. The meeting shall

be held within three schooldays of the time the request is received by the superintendent or the superintendent's designee.

(b) The superintendent or the superintendent's designee shall determine if there was sufficient evidence to find that the alleged violation occurred and whether the penalty imposed was appropriate for the violation.

(c) The pupil may designate a representative to be present with him or her at the meeting. The representative shall not act as legal counsel for the pupil, unless legal counsel is present to represent the school district.

At the meeting:

(1) The superintendent or the superintendent's designee shall review all written documents in the case.

(2) The pupil and the pupil's parent, guardian, and representative may address the superintendent or the superintendent's designee on the evidence and the appropriateness of the penalty.

(d) The superintendent or the superintendent's designee shall render a decision within two schooldays. If the superintendent or the superintendent's designee determines that no violation occurred, all records and documentation regarding the disciplinary proceedings and suspension shall be immediately destroyed, and no information regarding the meeting shall be placed in the pupil's permanent record or file or communicated to any person not directly involved in the disciplinary proceedings. If the superintendent or the superintendent's designee determines that the penalty imposed was inappropriate for the violation, all records and documentation concerning the suspension shall be revised to indicate only the facts leading to the penalty imposed by the superintendent or the superintendent's designee.

48915. (a) The principal or the superintendent of schools shall recommend a pupil's expulsion for any of the following acts, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any firearm, knife, explosive, or other dangerous object of no reasonable use to the pupil at school or at a school activity off school grounds.

(3) Unlawful sale of any controlled substance, as defined in Section 11007 of the Health and Safety Code, except for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48919, the governing board may order a pupil expelled upon finding that the pupil violated

subdivision (a), (b), (c), (d), or (e) of Section 48900.

(c) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48919, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (f), (g), (h), (i), (j), or (k) of Section 48900 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(d) In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivisions (b) and (c) only if the board also finds, based upon a determination by an individualized education program team, that the misconduct was not caused by the pupil's identified handicap or by an inappropriate placement.

However, a pupil with previously identified exceptional needs who is currently enrolled in a special education program may be suspended for any of the reasons enumerated in Section 48900 upon a first offense, without a determination by an individualized education program team that the misconduct was not caused by the pupil's identified handicap or by an inappropriate placement, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900, or that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process.

48916. An expulsion order shall remain in effect until such time as the governing board may, in the manner prescribed in this article, order the readmission of a pupil. At the time an expulsion of a pupil is ordered, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil may apply for readmission to a school maintained by the district.

The governing board may recommend a plan of rehabilitation for the pupil, which may include, but not be limited to, periodic review as well as assessment at the time of application for readmission. The plan may also include recommendations for counseling, employment, community service, or other rehabilitative programs.

The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

48917. The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the

suspension of enforcement, assign the pupil to a school, class, or program which is deemed appropriate for the rehabilitation of the pupil. During the period of the suspension of the expulsion order, the pupil shall be deemed to be on probationary status. The suspension of an expulsion order under this section may be revoked by the governing board upon the pupil's commission of any of the acts enumerated in Section 48900 or for any violation of the district's rules and regulations governing pupil conduct. Upon revocation of the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

Upon satisfactory completion of the rehabilitation assignment of a pupil, the pupil shall be reinstated by the governing board in a school of the district. Upon reinstatement, the governing board may also order the expungement of any or all records of the expulsion proceedings.

A decision of the governing board to suspend an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

48918. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to the following:

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays of the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall require that the pupil shall be entitled to at least one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the governing board.

In the event that compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days prior to the date of the hearing. The notice shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the proposed expulsion is based; a copy of the disciplinary rules of the district which relate to

the alleged violation; and the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses.

(c) Notwithstanding the provisions of Section 54593 of the Government Code and Section 35145 of this code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board may meet in closed session for the purpose of deliberating and determining if the pupil should be expelled.

If the governing board or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil shall also be allowed to attend the closed deliberations.

(d) In lieu of conducting an expulsion hearing itself, the governing board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct the hearing. The governing board may also appoint an impartial adminstrative panel of three or more certificated persons, none of whom shall be members of the board or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

(e) Within three schooldays following the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil shall be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the superintendent of schools or the superintendent's designee after consultation with school district personnel, including the pupil's teachers, and the pupil's parent or guardian. The decision not to recommend expulsion shall be final.

(f) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board. All findings of fact and recommendations shall be based solely on the evidence adduced

at the hearing. If the governing board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board may order.

The decision of the governing board to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk of harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the governing board or the hearing officer or administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the pupil.

(g) A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

(h) Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(i) Whether an expulsion hearing is conducted by the governing board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent to the pupil or the pupil's parent or guardian and shall be accompanied by notice of the right to appeal the expulsion to the county board of education.

A decision of the governing board whether to expel a pupil shall be made within 10 schooldays following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed.

(j) The governing board shall maintain a record of each expulsion, including the cause therefor. Records of expulsions shall be a nonprivileged, disclosable public record.

The expulsion order and the causes therefor shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a

request from the admitting school for the pupil's school records.

48919. If a pupil is expelled from school, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the governing board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education shall hold the hearing within 20 schooldays following the filing of a formal request under this section and shall render a decision within three schooldays of the hearing, unless the pupil requests a postponement.

The period within which an appeal is to be filed shall be determined from the date a governing board votes to expel even if enforcement of the expulsion action is suspended and the pupil is placed on probation pursuant to Section 48917. A pupil who fails to appeal the original action of the board within the prescribed time may not subsequently appeal a decision of the board to revoke probation and impose the original order of expulsion.

The county board of education shall adopt rules and regulations establishing procedures for expulsion appeals conducted under this section. The adopted rules and regulations shall include, but need not be limited to, the requirements for filing a notice of appeal, the setting of a hearing date, the furnishing of notice to the pupil and the governing board regarding the appeal, the furnishing of a copy of the expulsion hearing record to the county board of education, procedures for the conduct of the hearing, and the preservation of the record of the appeal.

The pupil shall submit a request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the county board of education. The school district shall provide the pupil with the transcriptions, supporting documents, and records within five schooldays following the pupil's request. The pupil shall immediately file suitable copies of these records with the county board of education.

48920. Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the county board of education shall hear an appeal of an expulsion order in closed session, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted in a public meeting. Upon the timely submission of a request for a public meeting, the county board of education shall be required to honor the request. Whether the hearing is conducted in closed or public session, the county board may meet in closed session for the purpose of deliberations. If the county board admits any representative of the pupil or the school district, the board shall, at the same time, admit representatives from the opposing party.

48921. The county board of education shall determine the appeal from a pupil expulsion upon the record of the hearing before the district governing board, together with such applicable documentation or regulations as may be ordered. No evidence other

than that contained in the record of the proceedings of the school board may be heard unless a de novo proceeding is granted as provided in Section 48923.

It shall be the responsibility of the pupil to submit a written transcription for review by the county board. The cost of the transcript shall be borne by the pupil except in either of the following situations:

(1) Where the pupil's parent or guardian certifies to the school district that he or she cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both.

(2) In a case in which the county board reverses the decision of the local governing board, the county board shall require that the local board reimburse the pupil for the cost of such transcription.

48922. (a) The review by the county board of education of the decision of the governing board shall be limited to the following questions:

(1) Whether the governing board acted without or in excess of its jurisdiction.

(2) Whether there was a fair hearing before the governing board.

(3) Whether there was a prejudicial abuse of discretion in the hearing.

(4) Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

(b) As used in this section, a proceeding without or in excess of jurisdiction includes, but is not limited to, a situation where an expulsion hearing is not commenced within the time periods prescribed by this article, a situation where an expulsion order is not based upon the acts enumerated in Section 48900, or a situation involving acts not related to school activity or attendance.

(c) For purposes of this section, an abuse of discretion is established in any of the following situations:

(1) If school officials have not met the procedural requirements of this article.

(2) If the decision to expel a pupil is not supported by the findings prescribed by Section 48915.

(3) If the findings are not supported by the evidence.

A county board of education may not reverse the decision of a governing board to expel a pupil based upon a finding of an abuse of discretion unless the county board of education also determines that the abuse of discretion was prejudicial.

48923. The decision of the county board shall be limited as follows:

(a) Where the county board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board, it may do either of the

following:

(1) Remand the matter to the governing board for reconsideration and may in addition order the pupil reinstated pending such reconsideration.

(2) Grant a hearing de novo upon reasonable notice thereof to the pupil and to the governing board. The hearing shall be conducted in conformance with the rules and regulations adopted by the county board under Section 48919.

(b) In all other cases, the county board shall enter an order either affirming or reversing the decision of the governing board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local board to expunge the record of the pupil and the records of the district of any references to the expulsion action and such expulsion shall be deemed not to have occurred.

48924. The decision of the county board of education shall be final and binding upon the pupil and upon the governing board of the school district. The pupil and the governing board shall be notified of the final order of the county board, in writing, either by personal service or by certified mail. The order shall become final when rendered.

48925. As used in this article:

(a) "Day" means a calendar day unless otherwise specifically provided.

(b) "Expulsion" means removal of a pupil from (1) the immediate supervision and control, or (2) the general supervision, of school personnel, as those terms are used in Section 46300.

(c) "Schoolday" means a day upon which the schools of the district are in session or weekdays during the summer recess.

(d) "Suspension" means removal of a pupil from ongoing instruction for adjustment purposes. However, "suspension" does not mean any of the following:

(1) Reassignment to another education program or class at the same school where the pupil will receive continuing instruction for the length of day prescribed by the governing board for pupils of the same grade level.

(2) Referral to a certificated employee designated by the principal to advise pupils.

(3) Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the pupil to the principal or the principal's designee as provided in Section 48910. Removal from a particular class shall not occur more than once every five schooldays.

(e) "Pupil" includes a pupil's parent or guardian or legal counsel.

SEC. 92. Section 49067 of the Education Code is amended to read:

49067. (a) The governing board of each school district shall prescribe regulations requiring the evaluation of each pupil's achievement for each marking period and requiring a conference with, or a written report to, the parent of each pupil whenever it

becomes evident to the teacher that the pupil is in danger of failing a course. The refusal of the parent to attend the conference, or to respond to the written report, shall not preclude failing the pupil at the end of the grading period.

(b) The governing board of any school district may adopt regulations authorizing a teacher to assign a failing grade to any pupil whose unexcused absences from the teacher's class equal or exceed a maximum number which shall be specified by the board. Regulations adopted pursuant to this subdivision shall include, but not be limited to, the following:

(1) A reasonable opportunity for the pupil or the pupil's parent or guardian to explain the absences.

(2) A method for identification in the pupil's record of the failing grades assigned to the pupil on the basis of excessive unexcused absences.

(c) Notwithstanding the provisions of subdivision (a) of Section 49061, the provisions of this section shall apply to the parent or guardian of any pupil without regard to the age of the pupil.

SEC. 93. Section 51225 of the Education Code is amended to read:

51225. No pupil shall receive a diploma of graduation from high school who has not completed the course of study prescribed by the governing board. Requirements for graduation shall include:

(a) English.

(b) American history.

(c) American government.

(d) Mathematics.

(e) Science.

(f) Physical education, unless the pupil has been exempted pursuant to the provisions of this code.

(g) Such other subjects as may be prescribed.

The governing board, with the active involvement of parents, administrators, teachers, and students, shall, by January 1, 1979, adopt alternative means for students to complete the prescribed course of study which may include practical demonstration of skills and competencies, work experience or other outside school experience, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to students, parents, and the public.

This section shall remain in effect until July 1, 1986, and as of that date is repealed unless a later enacted statute which is chaptered before July 1, 1986, deletes or extends that date.

SEC. 94. Section 51225.3 is added to the Education Code, to read:

51225.3. (a) Commencing with the 1986–87 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 through 12, has not completed:

(1) At least the following numbers of courses in the subjects specified, each course having a duration of one year.

(A) Three courses in English.

(B) Two courses in mathematics.

(C) Two courses in science, including biological and physical sciences.

(D) Three courses in social studies, including United States history and geography; world history, culture, and geography; and American government, civics, and economics.

(E) One course in fine arts or foreign language.

(F) Two courses in physical education unless the pupil has been exempted pursuant to the provisions of this code.

(2) Such other coursework as the governing board of the school district may by rule specify.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for students to complete the prescribed course of study which may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

SEC. 95. Section 51225.4 is added to the Education Code, to read:

51225.4. The governing board of each elementary school district shall certify to the Superintendent of Public Instruction that it has adopted a policy to implement a course of instruction which sufficiently prepares the pupils in the district for the course of study required in Section 51225 or 51225.3, whichever is applicable. This certification shall be submitted to the superintendent at the same time the district submits its apportionment reports.

SEC. 96. Section 51226 is added to the Education Code, to read:

51226. (a) The Superintendent of Public Instruction shall coordinate the development, on a cyclical basis, of model curriculum standards for the course of study required by Section 51225.3. The superintendent shall set forth these standards in terms of a wide range of specific competencies, including higher level skills, in each academic subject area. The superintendent shall review currently available textbooks in conjunction with the curriculum standards. The superintendent shall seek the advice of classroom teachers, school administrators, parents, postsecondary educators, and representatives of business and industry in developing these curriculum standards. The superintendent shall recommend policies to the State Board of Education for consideration and adoption by the board. The State Board of Education shall adopt these policies no later than January 1, 1985. However, neither the superintendent nor the board shall adopt rules or regulations for course content or methods of instruction.

(b) Not less than every three years, the governing board of each school district shall compare local curriculum, course content, and course sequence with the standards adopted pursuant to subdivision (a).

SEC. 97. Section 51228 is added to the Education Code, to read:

51228. (a) Each school district maintaining any of grades 7 to 12, inclusive, shall offer to all otherwise qualified pupils in those grades a course of study fulfilling the requirements and prerequisites for admission to the California public universities.

(b) Each school district maintaining any of grades 7 to 12, inclusive, shall offer to all otherwise qualified pupils in those grades a course of study which provides an opportunity for those pupils to attain entry level employment skills in business or industry upon graduation from high school.

(c) Any school district which adopts a required curriculum which meets or exceeds the model standards developed by the State Board of Education pursuant to Section 51226 shall be deemed to have fulfilled its responsibilities pursuant to this section.

SEC. 98. Section 52048 is added to the Education Code, to read:

52048. (a) It is the intent of the Legislature that the funding system for school improvement programs, as prescribed by Section 52046, be simplified and equalized to the end that all districts have available for ongoing efforts one hundred dollars ($100) per pupil enrolled in kindergarten and grades 1 through 6, adjusted in the 1985–86 fiscal year and each fiscal year thereafter by the same percentage increase made in base revenue limits for unified school districts with over 1,500 units of average daily attendance.

(b) In order to promote this intent, the Superintendent of Public Instruction shall allocate any cost-of-living adjustment for school improvement programs in a kindergarten and grades 1 through 6 as follows:

(1) For any school district which received an allocation in the prior year, compute the product of one hundred dollars ($100), adjusted for increases in base revenue limits as specified in subdivision (a), multiplied by 80 percent of the current year enrollment in kindergarten and grades 1 through 6.

(2) For any district which received an allocation in the prior year which was less than the product computed in paragraph (1), allocate funds to the district equivalent to the percentage increase approved by the Legislature as the cost-of-living adjustment for school improvement, except that the allocation to the district for grades 1 through 6 shall not exceed the amount computed in paragraph (1).

(c) The governing board of any school district receiving funds for school improvement programs in kindergarten and grades 1 through 6 may elect to allocate those funds to any school or schools in the district for use in kindergarten and grades 1 through 6 for the operation of school improvement programs in accordance with the provisions of this chapter, provided that the allocation to any school shall not be reduced to less than 80 percent of the amount computed pursuant to paragraph (1) of subdivision (b).

(d) Any funds appropriated by the Legislature for a cost-of-living adjustment for school improvement programs which are not allocated by the Superintendent of Public Instruction as a result of

the implementation of subdivision (b) shall be allocated by the Superintendent in accordance with subdivision (e).

(e) The Superintendent of Public Instruction shall allocate any additional funds appropriated by the Legislature for the implementation of school improvement programs in kindergarten and grades 1 through 6, plus any funds remaining unallocated pursuant to subdivision (d), to school districts on an application basis. Such funds shall be allocated to school districts in accordance with criteria established by the State Board of Education in order to promote the simplification and equalization of school improvement funding in kindergarten and grades 1 through 6. No funds shall be allocated pursuant to this subdivision to a school district which is receiving school improvement funding for kindergarten and grades 1 through 6 in an amount equal to or greater than the amount computed in paragraph (1) of subdivision (b).

(f) The Superintendent of Public Instruction may waive the planning requirements prescribed pursuant to subdivision (a) of Section 52046, if the school district certifies that school improvement funds may be utilized effectively without preplanning.

The provisions of this section shall become operative July 1, 1984.

SEC. 99. Section 52049 is added to the Education Code, to read:

52049. School districts which receive funds for pupils in kindergarten and grades 1 through 6 may use those funds in any approved school for pupils in kindergarten and grades 1 through 8.

Funds apportioned for pupils in grades 7 and 8 in the 1982–83 fiscal year shall be deemed to be funds apportioned for kindergarten and grades 1 through 6.

The provisions of this section shall become operative July 1, 1984.

SEC. 100. Section 52302.5 of the Education Code is amended to read:

52302.5. A regional occupational center or regional occupational program shall:

(a) Provide individual counseling and guidance in vocational matters.

(b) Provide a curriculum which includes skill training in occupational fields having current and future needs for such training.

(c) Provide an opportunity for students to acquire entry level vocational skills which may lead to a combination work-study schedule.

(d) Provide for the upgrading of the vocational skills of students and for retraining where necessary.

(e) Maintain a pupil-teacher ratio which will enable students to achieve optimum benefits from the instructional program.

(f) Assign the highest priority in services to youth from the age of 16 to 18 years, inclusive.

SEC. 101. Section 52304.1 is added to the Education Code, to read:

52304.1. The governing board of each school district maintaining a high school shall annually review and assess the participation of

pupils in grades 11 and 12 in regional occupational centers and programs. The governing board shall prepare an annual plan to increase the participation of these pupils unless it determines that there are no additional pupils enrolled in the district who would benefit from this participation.

The governing board shall conduct public hearings for purposes of reviewing the participation of these pupils and for the adoption of the plan required under this section.

SEC. 102. Section 52333 is added to the Education Code, to read:

52333. (a) In the 1983–84 fiscal year the Superintendent of Public Instruction shall allocate a minimum of 70 percent of the growth funds appropriated in the Budget Act of 1983 for purposes of funding the growth in average daily attendance in regional occupational centers and programs for high school age youth. Regional occupational centers and programs shall be eligible to receive these funds only if they increase the number or percentage of youth from the age 16 to 18 years, inclusive, served from the 1982–83 to 1983–84 fiscal years.

(b) The Superintendent of Public Instruction may waive the requirements of subdivision (a) for any regional occupational center or program which certifies that it has been unable to increase the number or percentage of youth from the age 16 to 18 years, inclusive, served between the 1982–83 and 1983–84 fiscal years, but has increased the number or percentage of adults during that period. The superintendent shall report to the Legislature by July 1, 1984, regarding the number of waivers granted.

SEC. 103. Article 7.5 (commencing with Section 52460) is added to Chapter 9 of Part 28 of the Education Code, to read:

Article 7.5. Agricultural Vocational Education Incentive Program

52460. The governing board of a school district which operates an agricultural vocational education program may apply to the Superintendent of Public Instruction for an incentive grant, pursuant to this article, for the purpose of purchasing or leasing agricultural vocational education equipment.

52461. The Superintendent of Public Instruction shall award grants to applicant school districts which meet the following requirements:

(a) The school district shall contribute an amount of funds equal to the amount of the grant to the purchase or lease of equipment for use in agricultural vocational education programs.

(b) The school district shall certify to the Superintendent of Public Instruction that the grant funds received and the matching funds contributed by the district shall be used solely for the purpose of purchasing or leasing equipment for use in agricultural vocational education programs.

52461.5. (a) For purposes of this article, "agricultural vocational education equipment" shall mean any nonsalary item of

expenditure, including, but not limited to, capital outlay, for approved agricultural vocational education programs.

(b) Notwithstanding any other provision of law, any requirement of this article or any other provision chaptered during the 1983–84 fiscal year that school districts contribute local matching funds to be eligible for state funds for nonsalary costs of vocational agriculture programs may be waived by the Superintendent of Public Instruction if he or she finds that such a matching requirement would create a financial hardship for any school district.

52462. The State Board of Education shall, with the advice of the Superintendent of Public Instruction, adopt rules and regulations governing the distribution of funds provided for purposes of this article and shall adopt criteria for assessing whether school districts have met the requirements of Section 52461.

52463. The Superintendent of Public Instruction shall report to the Legislature on or before September 30, 1984, regarding the agricultural vocational education incentive program.

SEC. 104. Section 52616 of the Education Code is repealed.

SEC. 105. Section 52616 is added to the Education Code, to read:

52616. The Superintendent of Public Instruction shall determine an adult block entitlement for school districts which maintain education programs for adults. This entitlement shall be paid from appropriations to Section A of the State School Fund as a part of the principal apportionment to school districts.

(a) For the 1983–84 fiscal year, each district's adult revenue limit per unit of average daily attendance for the prior fiscal year calculated pursuant to Provision 1 of Item 6100-156-001 of the Budget Act of 1982 shall be increased by seventy dollars ($70). For the 1984–85 fiscal year and each fiscal year thereafter, each district's adult revenue limit per unit of average daily attendance for the prior fiscal year shall be increased by an amount equal to 6 percent of the prior year's statewide average adult revenue limit per unit of average daily attendance, provided that no such revenue limit per unit of average daily attendance shall be less than 1.06 times the prior fiscal year's statewide average adult revenue limit per unit of average daily attendance.

(b) For the purposes of the block entitlement, the district's average daily attendance shall be the lesser of paragraph (1) or (2):

(1) The 1979–80 adult average daily attendance for the programs specified in Section 41976 multiplied by 1.02 for the 1980–81 fiscal year, 1.025 for the 1981–82 fiscal year, and 1.025 for each fiscal year subsequent to 1982–83.

(2) The actual adult average daily attendance for the programs specified in Section 41976.

(c) The adult block entitlement shall be computed by multiplying the adult revenue limit per unit of average daily attendance from subdivision (a) and the adult average daily attendance allowed in subdivision (b). The adult 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 shall be expended only for adult education purposes. Moneys received for programs other than adult education shall not be expended for adult education.

(d) 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, subject to the following:

(1) The classes and courses offered in activity centers, work activity centers, sheltered workshops, and state hospitals shall be authorized pursuant to subdivision (e) of Section 41976.

(2) A school district shall operate classes in these facilities and shall expend all funds set aside pursuant to this subdivision and shall use all funds exclusively for those classes for substantially handicapped adults.

(3) The conditions imposed by paragraphs (1) and (2) may be waived by the Superintendent of Public Instruction upon certification from the school district that the local demand for the program is less than the required level of service.

SEC. 106. Section 52853 of the Education Code is amended to read:

52853. The school site council shall develop a school plan which shall include:

(a) Curricula, instructional strategies and materials responsive to the individual needs and learning styles of each pupil.

(b) Instructional and auxiliary services to meet the special needs of non-English-speaking or limited-English-speaking pupils, including instruction in a language these pupils understand; educationally disadvantaged pupils; gifted and talented pupils; and pupils with exceptional needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers, including those participating in special programs.

(d) Ongoing evaluation of the educational program of the school.

(e) Other activities and objectives as established by the council.

(f) The proposed expenditures of funds available to the school through the programs described in Section 52851. For purposes of this subdivision, proposed expenditures of funds available to the school through the programs described in Section 52851 shall include, but not be limited to, salaries and staff benefits for persons providing services for those programs.

The school site council shall annually review the school plan, establish a new budget, and if necessary, make other modifications in the plan to reflect changing needs and priorities.

SEC. 107. Section 52858 of the Education Code is amended to read:

52858. (a) If the school district and school choose to include

within the provisions of this article, funds allocated pursuant to Chapter 1 (commencing with Section 54000) of Part 29, the school district shall: (a) if the number of educationally disadvantaged pupils in the school is less than 75 percent of the school's enrollment, ensure that there is state and local funding in the school available for allocation pursuant to subdivision (f) of Section 52853 which is equal to or greater than the per pupil amount allocated to that school per disadvantaged pupil through the economic impact aid program multiplied times 75 percent of the school's enrollment, (b) continue to maintain any school or district advisory committees required pursuant to Chapter 1, and (c) continue to distribute funds to schools in accordance with Sections 54004.3, 54004.5, and 54004.7 and regulations adopted which pertain to those sections.

(b) To the extent permitted by federal law, the percentage limitation and multiplier established in subdivision (a) may be decreased to not less than 67 percent.

SEC. 108. Section 54029 is added to the Education Code, to read:

54029. (a) Any school district which, in the 1982–83 fiscal year, allocated funds received by the district pursuant to this article to secondary schools shall continue to allocate the same per-pupil amounts to those schools in subsequent fiscal years.

(b) The State Board of Education may, pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, waive any statutory provision or regulation regarding the use of funds apportioned pursuant to this article, provided that the funds are used in the same schools, or in schools in similar need, and the district demonstrates a reasonable case that the waiver will improve pupil services in those schools.

SEC. 109. Section 54060 of the Education Code is amended 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.

(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. The superintendent shall total the result for such districts and shall divide that 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, and by the district's aid to families with dependent children count for the 1975–76 fiscal year. The amounts allocated pursuant to this paragraph shall be in addition to other amounts computed under this chapter.

(b) For the purposes of subdivision (a), high school districts and their feeder elementary school districts shall be considered unified school districts.

(c) If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, those allowances shall be reduced proportionately.

(d) 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. 110. Article 2.5 (commencing with Section 54650) is added to Chapter 9 of Part 29 of the Education Code, to read:

Article 2.5. Education Improvement Incentive Program

54650. It is the intent of the Legislature to encourage improvement in the performance of all public schools by providing fiscal incentives to motivate teachers and school site administrators to work to increase school performance. It is not the intent of the Legislature that incentive funding provided pursuant to this article be used as a substitute for periodic inflation adjustments to school apportionments.

The Legislature recognizes that recent indicators of education achievement, including the results of the California Assessment Program, show high schools to be in the greatest need of educational improvement. It is therefore the intent of the Legislature that the Education Improvement Incentive Program first be implemented in the state's public high schools.

It is further the intent of the Legislature that the Californa Assessment Program conducted pursuant to Chapter 5 (commencing with Section 60600) of Part 33 be used to measure the improvement of school performance in content courses, with an emphasis on logical analysis, the drawing of reasonable inferences, and communication of ideas.

54651. (a) Beginning with the 1984–85 fiscal year, and each fiscal year thereafter, the State Board of Education shall develop a composite rating of each school's performance in the subject areas tested pursuant to Section 60602. The composite rating shall be based upon the weighted percentage of correct answers scored by the

school on the tests administered pursuant to Section 60603 in each of the subject areas tested pursuant to Section 60602.

(b) Beginning with the 1984–85 fiscal year, and each fiscal year thereafter, the State Board of Education shall develop a statewide composite rating of performance for all schools in the state, based upon the composite ratings of each school developed pursuant to subdivision (a).

54652. (a) Any school district which elects not to participate in the Education Improvement Incentive Program may so notify the Superintendent of Public Instruction on or before January 1, 1985.

(b) The Superintendent of Public Instruction shall not include the schools located within a district which has elected not to participate in the incentive program in the computations required pursuant to Section 54653, 54654, 54655, or 54658.

54653. Beginning with the 1984–85 fiscal year, and each fiscal year thereafter, the State Board of Education shall compute the change in the performance of each school as measured by the change in the composite rating from the prior year. A school which demonstrates an improved performance from the prior year shall earn incentive funding in the fiscal year in which the performance inprovement occurred. The State Board of Education shall compute the incentive funding earned by each school pursuant to this section as follows:

(a) For each school which demonstrates an improved performance, multiply the increase in the composite score of the school by the number of pupils in that school who took the test during the fiscal year in which the increase occurred.

(b) Add the individual products computed pursuant to subdivision (a) to determine the total statewide increase in school performance.

(c) Divide the product computed for the individual school pursuant to subdivision (a) by the total statewide increase in school performance computed pursuant to subdivision (b) to determine the individual school's proportional contribution to the statewide increase in school performance.

(d) Multiply the quotient obtained pursuant to subdivision (c) by the amount appropriated in that fiscal year for purposes of this article to determine the incentive funding earned by an individual school. In no case, shall the amount of incentive funding earned by an individual school exceed the product of the number of pupils enrolled in that school multiplied by four hundred dollars ($400).

The State Board of Education shall provide the Superintendent of Public Instruction with a list of the schools which have earned incentive funding, and the amount of that funding earned by each school. The board shall provide the governing board of each school district with a list of the schools within the district which have earned incentive funding, and the amount of that funding earned by each school.

54654. Commencing with the 1984–85 fiscal year, and each fiscal year thereafter the Superintendent of Public Instruction shall

compute a districtwide total of incentive funding earned by individual schools located within each school district. The superintendent shall include this sum in the school district's second principal apportionment for the fiscal year in which the incentive funding was earned. Incentive funding received pursuant to this article shall supplement, and shall not supplant, the apportionment due to a school district.

54654.5. Incentive funds included in a school district's apportionment pursuant to Section 54654 shall not be considered part of the current expense of education for purposes of Section 41372.

54655. The governing board of a school district which received funding pursuant to Section 54654 shall allocate to each school which earned incentive funding an amount equal to 100 percent of the amount earned by that school as computed pursuant to Section 54653.

54655.5. Each school which receives an allocation pursuant to Section 54655 shall utilize its school-site council for purposes of planning the expenditure of those funds. If the school does not have a school-site council, it shall establish one as provided by Section 52012.

54656. No funds allocated pursuant to Section 54654 shall be used for any of the following purposes:

(a) To pay salaries negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Title 1 of Division 4 of the Government Code.

(b) To hire additional staff pursuant to employment agreements for a term of one year or more.

54656.5. Funds allocated to schools pursuant to Section 54655 shall supplement, and shall not supplant, school budgets.

54657. The governing board of each school district which elects to participate in the Education Improvement Incentive Program shall certify to the Superintendent of Public Instruction the number of pupils enrolled in the district which have been exempted from the testing program conducted pursuant to Section 60603. The superintendent shall compare this number with the unduplicated count of individuals with exceptional needs reported by age and handicapping conditions by the district to the superintendent as a condition of receiving federal funding pursuant to Public law 94-142. If the superintendent determines that the governing board has exempted an excessive number of pupils from the testing program, the superintendent shall proportionately reduce the district's total incentive funding calculated pursuant to Section 54654.

54657.5. In order to ensure the validity of the composite ratings of twelfth grade performance used for purposes of this article, the State Department of Education shall develop procedures for the twelfth grade for the proctoring of tests administered as part of the testing program by persons not employed by the school district administering the test. At least one proctor shall be present in each

classroom used for the administration of the test while the test is being conducted.

The proctor assigned to each classroom shall be given the responsibility of delivering the completed test forms to the State Department of Education for scoring.

54658. In the 1986–87 fiscal year, the Superintendent of Public Instruction shall calculate the statwide performance improvement for grade 12 which occurred since the 1983–84 fiscal year, based upon the composite rating developed pursuant to Section 54651, and shall report the results to the Legislature on or before June 30, 1987.

54659. (a) The provisions of this article shall apply only to public high schools.

(b) For the 1983–84 fiscal year, the Superintendent of Public Instruction shall select a stratified sample of high schools to participate in this program on a pilot basis.

The Superintendent of Public Instruction shall report to the Legislature by January 31, 1984, regarding the selection of high schools. The superintendent may also propose at that time any other modifications to the implementation of this funding system.

SEC. 110.3. 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. For fiscal year 1981–82, the unit rates shall be increased by 5 percent. For fiscal year 1983–84, the unit rates shall be increased by 8 percent. Commencing with fiscal year 1984–85 and each fiscal year thereafter, the unit rates shall be increased by the statewide average percentage inflation adjustment computed for revenue limits of school districts.

SEC. 110.5. Section 56782 of the Education Code is amended to read:

56782. For fiscal year 1983–84, the amounts per unduplicated pupil provided pursuant to Section 56781 shall be increased by 8 percent. Commencing with the 1984–85 fiscal year and in each fiscal year thereafter, the amounts per unduplicated pupil provided pursuant to Section 56781 shall be increased annually by the statewide average percentage inflation adjustment computed for revenue limits of school districts.

SEC. 111. Section 56774.5 is added to the Education Code, to read:

56774.5. This article 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 that date.

SEC. 112. Chapter 6 (commencing with Section 58800) is added to Part 31 of the Education Code, to read:

CHAPTER 6. SPECIALIZED SECONDARY PROGRAMS

58800. It is the intent of the Legislature in enacting this chapter to assist in the establishment of specialized high schools in the state

to provide advanced instruction and training in high technology fields and in the performing arts.

The Legislature recognizes that the establishment of these specialized high schools will benefit the state economy by providing opportunities to talented pupils to obtain enhanced learning opportunities in high technology fields and in the performing arts while enrolled in schools located in school districts in close proximity to urban areas in which these industries are located.

The Legislature also recognizes that the high technology specialized high schools established under the provisions of this chapter will enable the faculty providing instruction in these schools to develop model curricula of general application in the fields of mathematics, science, performing arts, and computer technology to be made available to other school districts in the public school system.

58801. Any school district operating one or more high schools, or any consortium of school districts which operate one or more high schools, may submit a proposal to the Superintendent of Public Instruction to establish a school or schools with specialized curricula in high technology, performing arts, or other special curricular areas, for pupils in grades 9 through 12. School districts which submit proposals as a consortium shall agree to accept pupils from each district in the consortium at the specialized school.

The Superintendent of Public Instruction shall, commencing with the 1984–85 fiscal year, allocate funds for start-up costs of these specialized secondary school programs.

58802. Faculty members providing instruction in specialized secondary programs shall develop model curricula which the Superintendent of Public Instruction shall make available to other school districts in the state. The superintendent shall review and evaluate the model curricula, and report his or her findings to the Legislature by December 31, 1985.

58803. Notwithstanding any other provision of law, specialized secondary programs may select as teachers noncredentialed persons who possess unique talents or skills from business, performing arts, or postsecondary institutions. No noncredentialed person shall be retained as a teacher in a specialized secondary program unless, within 60 days after the governing board has hired such a person, the Commission on Teacher Credentialing has issued a certificate of clearance for him or her, which the commission shall issue when it has verified the person's personal identification and good moral character.

Each school district governing board that employs noncredentialed persons to teach in specialized secondary programs shall annually report to the Superintendent of Public Instruction the number of those persons employed, the subjects they are employed to teach, and the unique talents and skills they possess.

SEC. 113. Section 60240 of the Education Code is amended to *read:*

60240. The State Instructional Materials Fund is hereby continued in existence. The fund shall be a means of annually funding the acquisition of instructional materials as required by the Constitution of the State of California. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the State Department of Education without regard to fiscal years for carrying out the purposes of this division. It is the intent of the Legislature that the fund shall provide for flexibility of instructional materials.

SEC. 114. Section 60246 of the Education Code is amended to read:

60246. The State Controller shall during each fiscal year, commencing with the 1983–84 fiscal year, transfer from the General Fund of the state to the State Instructional Materials Fund, an amount of twenty-one dollars and eighteen cents ($21.18) per pupil in the average daily attendance in the public elementary schools during the preceding fiscal year, as certified by the Superintendent of Public Instruction, except that this amount shall be adjusted annually in conformance with the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies.

SEC. 115. Section 60247 is added to the Education Code, to read:

60247. The Superintendent of Public Instruction shall annually apportion to each school district the sum of fourteen dollars and forty-one cents ($14.41) per pupil enrolled in grades 9 through 12 in the school district in the prior fiscal year for the purpose of purchasing instructional materials for the pupils enrolled in those grades.

SEC. 116. Section 60248 is added to the Education Code, to read:

60248. School district governing boards shall use the funds apportioned pursuant to Section 60247 solely for the purchase of instructional materials for pupils in grades 9 through 12 in accordance with Sections 60400 and 60401.

SEC. 117. Section 60249 is added to the Education Code, to read:

60249. In order to expend funds apportioned to the district pursuant to Section 60247, the governing board shall, by resolution adopted at a meeting open to the public, certify that the funds to be expended are in excess of what would otherwise have been expended for instructional materials in grades 9 through 12.

SEC. 118. Section 60602 of the Education Code is amended to read:

60602. As used in this chapter:

(a) "Achievement test" means any standardized test which measures or attempts to measure the level of performance which a pupil has attained in one or more courses of study. It shall include (1) tests in basic skills courses administered annually and (2) tests in content courses administered from time to time as designated by the State Board of Education.

(b) "Physical performance test" means any test which measures or attempts to measure the physical fitness of a pupil.

(c) "Testing program" means the systematic achievement testing of all pupils in grades 3, 6, 8, 10, and 12, and the physical performance testing of all pupils in any three grades designated by the State Board of Education, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(d) "Basic skills courses" means those subjects which involve, among other skills, memorization and mastery of specific functions, including, but not limited to, reading, spelling, basic mathematics, and effectiveness of written expression.

(e) "Content courses" means those subjects which require the integration of factual matter, logical analysis, the solution by the student of posed problems, and the communication of ideas, including, but not limited to, literature, history, advanced mathematics, and science.

SEC. 119. Section 60603 of the Education Code is amended to read:

60603. The State Board of Education shall:

(a) Require a testing program in all school districts.

(b) Require the Department of Education to submit and recommend achievement tests to the State Board of Education for approval and adoption. The adopted tests shall be printed or purchased and distributed to the various school districts in the state by the Department of Education.

(c) The State Board of Education shall develop a testing method that will obtain an accurate estimate of statewide performance, school district performance, and school performance of pupils in grades 3, 6, 8, 10, and 12, in basic skills courses and content courses.

Under such a testing method, the Department of Education shall annually require that each district administer a statewide test to all pupils in grades 3, 6, 8, 10, and 12. The department shall determine whether pupils in a given school shall be administered the entire test or whether the pupils shall be administered a portion of the test which will be representative of all the test objectives, goals, or categories of items on the entire test.

(d) Designate the physical performance test to be used during the ensuing school year.

(e) Adopt regulations for the conduct and administration of the testing program.

The State Board of Education shall award contracts to develop achievement testing instruments to be used for the purposes of this section in reading, mathematics, and language according to competitive bidding procedures.

SEC. 120. Section 60603.5 is added to the Education Code, to read:

60603.5. (a) The department may increase the pool of test questions used in assessing the achievement of pupils in grade 12 in

order to obtain an accurate estimate of school performance for purposes of Article 2.5 (commencing with Section 54650) of Chapter 9 of Part 29.

(b) In developing a testing method pursuant to subdivision (a), the State Board of Education shall ensure that the method used in high schools with less than 50 pupils enrolled in grade 12 will provide sufficient data to reliably determine the composite rating of the performance of those schools pursuant to Section 54651.

SEC. 121. Section 60604.5 of the Education Code is amended to read:

60604.5. The Department of Education shall develop a plan to analyze the results of the state testing program scores for grades 3, 6, 8, 10, and 12 to identify factors which are related to educational success or failure and shall submit to the Legislature annually a budget to perform such analyses.

SEC. 122. Section 60604.7 is added to the Education Code, to read:

60604.7. The State Board of Education shall implement the testing program for grade 10 and shall expand the testing program to include the annual administration of tests in content courses to the extent that the Legislature specifically makes funding available for those purposes.

SEC. 123. Article 8 (commencing with Section 60700) is added to Chapter 5 of Part 33 of the Education Code, to read:

Article 8. Golden State Examination Program

60700. There is hereby established the Golden State Examination Program for the purpose of administering the Golden State Examination to pupils enrolled in public high schools. The Golden State Examination shall measure pupil achievement under statewide standards of competency in academic subjects and shall adopt a special honors designation and insignia on a high school diploma for qualifying pupils. Participation in the Golden State Examination Program shall be voluntary on the part of each school district maintaining a high school.

60701. (a) On or before March 15, 1985, the Superintendent of Public Instruction shall prepare, with the cooperation of representatives from institutions of higher education, school districts, and certificated personnel, academic subject matter examinations for the Golden State Examination in each of the following academic subject areas:

(1) English literature and composition.
(2) Mathematics.
(3) Laboratory sciences.
(4) Foreign languages.
(5) United States history.
(6) Health sciences.
(7) Other academic subjects which are a part of the high school

curriculum as may be designated by the superintendent.

(b) The superintendent shall adopt rules and regulations establishing procedures for the administration and assessment of the Golden State Examination.

The adopted rules and regulations shall establish minimum achievement scores for eligibility for an honors designation and insignia on a high school diploma for pupils with qualifying scores on one or more academic subject matter examinations. The superintendent shall provide school districts with the necessary materials for the conferring of honors. The adopted rules and regulations shall also require participating school districts to notify pupils of the opportunity to take the Golden State Examination, to administer the examinations in accordance with the procedures established by the superintendent, and to affix the appropriate honors designation and insignia on high school diplomas. No pupil shall be required to take the Golden State Examination.

60702. The superintendent shall prepare an annual report comparing examination results among all participating school districts including the average scores achieved on the academic subject matter examinations, the number of pupils taking each examination, and the number of pupils qualifying for honors.

60703. It is the intent of the Legislature that school districts encourage local representatives of business and industry to recognize pupils who receive an honors designation based on the Golden State Examination.

SEC. 124. Section 62000 of the Education Code is amended to read:

62000. The following educational programs shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program after the review prescribed in Section 62006:

(a) Termination date of June 30, 1984:

(1) Demonstration programs in reading and mathematics.

(2) School improvement program.

(3) Professional development centers and staff development centers.

(4) Economic impact aid.

(b) Termination date of June 30, 1985:

(1) Urban impact aid.

(2) Bilingual education.

(3) Child care and preschool programs.

(4) Instructional materials.

(c) Termination date of June 30, 1986:

(1) Indian education centers.

(2) Indian early childhood education.

(3) Gifted and talented education.

(4) Adult education.

(d) Termination date of June 30, 1987:

(1) Special education for individuals with exceptional needs.

(2) Miller-Unruh Basic Reading Act of 1965.

SEC. 125. Part 35 (commencing with Section 63000) is added to the Education Code, to read:

PART 35. USE OF CATEGORICAL FUNDS

63000. The provisions of this part shall apply to funds received for the following categorical programs:

(1) Child care and development programs pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

(2) School library programs pursuant to Chapter 2 (commencing with Section 18100) of Part 11.

(3) School improvement programs pursuant to Chapter 6 (commencing with Section 52000) of Part 28.

(4) Bilingual education programs pursuant to Article 1 (commencing with Section 52000) and Article 3 (commencing with Section 52160) of Chapter 7 of Part 28.

(5) Economic Impact Aid programs pursuant to Chapter 1 (commencing with Section 54000) of Part 29.

(6) The Miller-Unruh Basic Reading Act of 1965 pursuant to Chapter 2 (commencing with Section 54100) of Part 29.

(7) Compensatory education programs pursuant to Chapter 4 (commencing with Section 54400) of Part 29, except for programs for migrant children pursuant to Article 3 (commencing with Section 54440) of Chapter 4 of Part 29.

63001. Each school district which, in any fiscal year, receives any apportionment for any program specified in Section 63000 shall budget and expend no less than 85 percent of that apportionment at school sites for direct services to pupils.

63002. The State Department of Education shall revise the State School Accounting Manual by March 1, 1984, to reflect the proper classification and accounting of funds expended at school sites and funds expended at the district level for programs specified in Section 63000.

SEC. 126. Article 6 (commencing with Section 69600) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 6. California Teacher Shortage Loan Assumption Program

69600. (a) The Legislature hereby recognizes that the ability of public schools to attract and retain teachers of high quality in the fields of mathematics, science, and other critical shortage areas as defined by the Superintendent of Public Instruction has been eroded by the low status and pay given to people in those positions relative to what they could realize in the private sector, and by the related shortage of students in these fields entering the teaching profession.

(b) It is the intent of the Legislature in enacting this article to do all of the following:

(1) Increase the number and quality of these teachers in California's secondary schools.

(2) Increase the number of graduates in these areas who select teaching as a profession.

(3) Provide prospective secondary school teachers in these areas with an opportunity to continue their graduate education in a field in which there is a shortage of students entering the teaching profession.

(4) Identify other subject matter areas in which there are shortages of teachers and to provide incentives for persons to complete a teacher training program in these areas to eliminate that shortage.

69601. No applicant for participation in the California Teacher Shortage Loan Assumption Program shall be eligible for participation unless he or she satisfies all of the following requirements:

(a) The applicant holds a baccalaureate degree in a field which academically qualifies the applicant to teach mathematics, science, or other critical shortage fields as defined by the Superintendent of Public Instruction.

(b) In order to meet costs associated with obtaining a baccalaureate degree, or a California teaching credential, in any of the areas specified in subdivision (a), the applicant has received a loan under one of the following programs:

(1) The federal Guaranteed Student Loan Program (GSLP).

(2) The National Direct Student Loan Program (NDSLP). The federal regulations pertaining to cancellation of a direct loan shall supersede the provisions of this article where applicable.

(3) Any other loan program approved by the Student Aid Commission.

(c) The applicant has agreed to teach in a California public school for at least three academic years after obtaining a teaching credential.

69601.5. Teachers employed by a school district providing classroom instruction, or enrolled in a teacher training program in the fields of mathematics, science, and other areas with a shortage of teachers, as determined by the Superintendent of Public Instruction, shall be eligible for participation in the California Teacher Shortage Loan Assumption Program.

69602. The Student Aid Commission shall administer the provisions of this article, and shall adopt rules and regulations for that purpose.

69604. The Superintendent of Public Instruction shall identify other areas in which there are shortages of teachers and shall submit recommendations to the Student Aid Commission for purposes of extending program eligibility to persons who will teach in these subject matter areas.

69605. The Student Aid Commission shall work in conjunction with lenders participating in the federal Guaranteed Student Loan

Program to develop a streamlined application process for the program.

69606. (a) The Superintendent of Public Instruction shall furnish the Student Aid Commission with a list of school districts which have a shortage of trained teachers in mathematics, science, and other critical shortage fields, and shall revise this list as he or she deems necessary.

(b) For purposes of loan assumption pursuant to Section 69607, the commission shall only credit teaching service by program participants in school districts included on the list furnished by the Superintendent of Public Instruction pursuant to subdivision (a).

69607. The terms of the loan assumption program shall be as follows:

(a) After a program participant has completed one school year of teaching service, the Student Aid Commission shall assume up to a maximum of two thousand dollars ($2,000) of the participant's outstanding loan liability.

(b) After a program participant has completed two school years of teaching service, the Student Aid Commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding loan liability, for a total loan assumption equal to five thousand dollars ($5,000).

(c) After a program participant has completed three school years of teaching service, the Student Aid Commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding GSLP or NDSLP loan liability, for a total loan assumption equal to up to a maximum of eight thousand dollars ($8,000).

For purposes of this section, school year means 175 days or its equivalent.

69608. (a) Except as provided in subdivision (b), in the event that a program participant fails to complete a minimum of three consecutive school years of teaching service, the participant shall, under the terms of the contract for the assumption of student loan obligations awarded by the commission, assume full liability for the GSLP, NDSLP, or other student loan obligations.

(b) Notwithstanding subdivision (a), in the event that a program participant becomes unable to complete one of the three consecutive years of teaching service due to serious illness, pregnancy, or other natural causes, the participant shall receive a deferral of the resumption of full liability for the loan for a period not to exceed one calendar year.

69609. By the 1985–86 school year, the commission shall provide for the assumption of up to 500 student loans for eligible program participants.

69610. It is the intent of the Legislature that commencing with the 1984–85 fiscal year, funding necessary for the administration of the guaranteed student loan assumption program shall be included within the annual budget of the Student Aid Commission in amount

necessary to meet the student loan obligations incurred by the commission.

SEC. 127. Section 76006 is added to the Education Code, to read:

76006. Except as provided in Section 3074.7 of the Labor Code, no charges or fees shall be required to be paid by an apprentice, or by his or her parent or guardian, for admission or attendance in any course or activity which is offered pursuant to Section 3074 of the Labor Code in accordance with the instructional hours requirements specified in subdivision (d) of Section 3078 of the Labor Code.

SEC. 128. Section 3543.2 of the Government Code is amended to read:

3543.2. (a) The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. "Terms and conditions of employment" mean health and welfare benefits as defined by Section 53200, leave, transfer and reassignment policies, safety conditions of employment, class size, procedures to be used for the evaluation of employees, organizational security pursuant to Section 3546, procedures for processing grievances pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8, and the layoff of probationary certificated school district employees, pursuant to Section 44959.5 of the Education Code. In addition, the exclusive representative of certificated personnel has the right to consult on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks to the extent such matters are within the discretion of the public school employer under the law. All matters not specifically enumerated are reserved to the public school employer and may not be a subject of meeting and negotiating, provided that nothing herein may be construed to limit the right of the public school employer to consult with any employees or employee organization on any matter outside the scope of representation.

(b) Notwithstanding Section 44944 of the Education Code, the public school employer and the exclusive representative shall, upon request of either party, meet and negotiate regarding causes and procedures for disciplinary action, other than dismissal, including a suspension of pay for up to 15 days, affecting certificated employees. If the public school employer and the exclusive representative do not reach mutual agreement, then the provisions of Section 44944 of the Education Code shall apply.

(c) Notwithstanding Section 44955 of the Education Code, the public school employer and the exclusive representative shall, upon request of either party, meet and negotiate regarding procedures and criteria for the layoff of certificated employees for lack of funds. If the public school employer and the exclusive representative do not reach mutual agreement, then the provisions of Section 44955 of the Education Code shall apply.

(d) Notwithstanding Section 45028 of the Education Code, the public school employer and the exclusive representative shall, upon

the request of either party, meet and negotiate regarding the payment of additional compensation based upon criteria other than years of training and years of experience. If the public school employer and the exclusive representative do not reach mutual agreement, then the provisions of Section 45028 of the Education Code shall apply.

SEC. 129. Section 3543.4 of the Government Code is amended to read:

3543.4. No person serving in a management position, senior management position, or a confidential position shall be represented by an exclusive representative. Any person serving in such a position shall have the right to represent himself individually or by an employee organization whose membership is composed entirely of employees designated as holding such positions, in his employment relationship with the public school employee, but, in no case, shall such an organization meet and negotiate with the public school employer. No representative shall be permitted by a public school employer to meet and negotiate on any benefit or compensation paid to persons serving in a management position, senior managment position, or a confidential position.

SEC. 130. Section 35040 of the Government Code is amended to read:

35040. "Last equalized assessment roll" means the last equalized assessment roll or book used by a city or county for the annual levy and collection of any taxes or assessments imposed by such city or county.

Nothing in this section requires the use of a supplemental roll prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 131. Section 66493 of the Government Code is amended to read:

66493. (a) Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map shall not be recorded until the owner or subdivider executes and files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, security conditioned upon the payment of all state, county, municipal and local taxes and the current installment of principal and interest of all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable.

(b) If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the security for payment of taxes need be only for such sum as may be determined by the county to be sufficient to pay the current and delinquent taxes on the land being subdivided, together with all accrued penalties and costs if such taxes have been or are allowed to become delinquent. The county shall also order the creation of new assessor's parcel numbers pursuant to Section 2823 of the Revenue and Taxation

Code. Separate assessor's parcel numbers shall be given to the portion of the larger parcel which is not within the proposed subdivision and to the parcel or parcels which are within the proposed subdivision.

If the land being subdivided is sold for taxes, it may be redeemed for such sale without the redemption of the remainder of the larger parcel of which it is a part pursuant to the provisions of the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

(c) Whenever land subject to a special assessment or bond which may be paid in full is divided by the line of a lot or parcel of the subdivision, such assessment or bond shall be paid in full, or security filed with the clerk of the board of supervisors, payable to the county as trustee for the assessment bondholders for the payment of such special assessment or bond. This section shall not apply to bonds issued under the provisions of the Improvement Bond Act of 1915.

(d) The amount of security for "taxes" in subdivision (a) or "current taxes" for subdivision (b), shall consider only amounts shown on the regular assessment roll or shown on any supplemental rolls prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 132. Section 72 of the Revenue and Taxation Code is amended to read:

72. (a) A copy of any building permit issued by any city, county, or city and county shall be transmitted by each such entity to the county assessor as soon as possible after the date of issuance.

(b) A copy of any certificate of occupancy or other document showing date of completion of new construction issued or finalized by any city, county, or city and county, shall be transmitted by each entity to the county assessor within 30 days after the date of issuance or finalization.

SEC. 133. Chapter 3.5 (commencing with Section 75) is added to Part 0.5 of Division 1 of the Revenue and Taxation Code, to read:

CHAPTER 3.5. CHANGE IN OWNERSHIP AND NEW CONSTRUCTION AFTER THE LIEN DATE

Article 1. Definitions and General Provisions

75. It is the intent of the Legislature in enacting this chapter to fully implement Article XIII A of the California Constitution and to promote increased equity among taxpayers by enrolling and taxing increases in assessed value due to changes in ownership and completion of new construction at the time they occur. The Legislature finds and declares that under the law in effect prior to the enactment of this chapter, recognition of these increases is delayed from four to sixteen months, which results in an unwarranted reduction of taxes for some taxpayers with a proportionate and inequitable shift of the tax burden to other

taxpayers.

75.1. Except where the context or the specific provisions of this chapter otherwise require, all of the following apply:

(a) The definitions in this article govern the construction of this chapter.

(b) The other provisions of this division apply to assessments made pursuant to this chapter.

(c) The taxes due pursuant to this chapter are in addition to any other taxes due under this division.

75.2. "Current roll" means the roll for the fiscal year during which the change in ownership occurs or the new construction is completed.

75.3. "The roll being prepared" means the roll for the fiscal year following the fiscal year in which the change in ownership occurs or the new construction is completed.

75.4. "Current tax rate" means the tax rate applicable to the current roll.

75.5. "Property" means and includes real property other than trade fixtures which are normally valued as a separate appraisal unit from a structure.

75.6. "Fiscal year" means a fiscal year beginning July 1 and ending June 30.

75.7. "Supplemental roll" means the roll prepared or amended in accordance with the provisions of this chapter and containing properties which have changed ownership or had new construction completed.

75.8. "New base year value" means the full cash value of property on the date it changes ownership or of new construction on the date it is completed.

Article. 2. Assessments on the Supplemental Roll

75.10. Commencing with the 1983–84 assessment year and each assessment year thereafter, whenever a change in ownership occurs or new construction is completed, the assessor shall appraise the property changing ownership or the new construction at its full cash value on the date the change in ownership occurs or the new construction is completed. The value so determined shall be the new base year value of the property or the new construction.

75.11. (a) If the change in ownership occurs or the new construction is completed on or after March 1 but on or before June 30, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. The second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared.

(b) If the change in ownership occurs or the new construction is completed on or after July 1 but before the succeeding March 1, then

the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple change in ownership occurrences of, or new construction completions to, the same real property, or both, during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

75.12. (a) (1) Any real property on which new construction is completed shall not be added to the supplemental roll pursuant to this article until the date that property, in whole or in part, does any of the following:

(A) Changes ownership.

(B) Is rented or leased.

(C) Is occupied or otherwise used by the owner or with the owner's consent, except that use which is incidental to an offer for a change of ownership, whichever comes first.

(2) This section applies only if the owner notifies the assessor in writing prior to the commencement of construction that he or she offers or intends to offer that property for sale or other change of ownership, and does not intend to rent, lease, occupy or otherwise use that property, except model homes or other use as is incidental to an offer for a change of ownership, and the owner requests the application of this section. For purposes of orderly implementation of this paragraph, the notice to the assessor shall be made within 45 days of the effective date of this section as to real property under construction on that date.

(3) Nothing in this section shall preclude the reassessment of any such property on the next succeeding regular lien date.

(b) The owner of any real property who makes a request of the assessor pursuant to subdivision (a) shall comply with the provisions of Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2.

75.13. Any supplemental assessment made within one year of the date of the change in ownership or the completion of new construction shall not be deemed to be an escaped assessment subject to Section 532.5.

Article 3. Exemptions

75.20. A supplemental assessment pursuant to this chapter shall not affect an exemption for which the property or the assessee was

otherwise eligible on the lien date for either the current roll or the roll being prepared.

75.21. Exemptions may be applied to the amount of the supplemental assessments.

Any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim, in such form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment.

75.22. Eligibility for exemption from the supplemental assessment shall be determined within 90 days of the date of the change in ownership or the completion of new construction.

75.23. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment limitations of Article XIIIA of the California Constitution. All property subject to the assessment limitations of Article XIIIA of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

Article 4. Notice of Assessment

75.30. Whenever the assessor determines that a change in ownership or the completion of new construction has occurred, the assessor shall notify the tax collector who shall place a notation on the current roll and the roll being prepared that a supplemental billing may be forthcoming.

75.31. (a) Whenever the assessor has determined a new base year value as provided in Section 75.10, the assessor shall send a notice to the assessee showing the following:

(1) The new base year value of the property which has changed ownership, or the new base year value of the completed new construction which shall be added to the existing base year value of the remainder of the property.

(2) The taxable value appearing on the current roll, and if the change in ownership or completion of new construction occurred between March 1 and June 30, the taxable value on the roll being prepared.

(3) The date of the change in ownership or completion of new construction.

(4) The amount of the supplemental assessments.

(5) The exempt amount, if any.

(6) The date of the notice.

(7) A statement that the supplemental assessment was determined in accordance with Article XIII A of the California Constitution which generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(8) Any other information which the board may prescribe.

(b) In addition to the information specified in subdivision (a), the notice shall inform the assessee of the procedure for filing a claim for

exemption which is to be filed within 30 days of the date of the notice.

(c) The notice shall advise the assessee of the right to appeal the supplemental assessment, and that the appeal must be received within 30 days of the date of the notice. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605, except that the application shall be filed within 30 days of notice.

(d) The notice shall advise the assessee that if the supplemental assessment is a negative amount the tax collector shall make a refund of a portion of taxes paid on assessments made on the current roll, or the roll being prepared, or both.

(e) The notice shall be furnished by the assessor to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor.

Article 5. Transmittal of Supplemental Assessments to the Auditor

75.40. When the period for claiming exemption or filing an application for reduction has expired, and any exemptions have been processed, the assessor shall transmit the supplemental assessment to the auditor including the following information:

(a) Name and address, if known, of the assessee.

(b) The parcel number or legal description of the property.

(c) The tax rate area in which the property is located.

(d) The new base year value of the property with the value for the land separated from the value for improvements.

(e) The value of the property on the current roll, or the roll being prepared or both.

(f) The exemption applicable, if any.

(g) The net assessment after exemption.

(h) The amount of the supplemental assessment or assessments.

75.41. (a) The auditor shall apply the current year's tax rate to the supplemental assessment, computing the amount of taxes that would be due for a full year. In the event that the change in ownership or completion of new construction occurs prior to January 1, the taxes due shall be computed in two equal installments.

(b) The taxes due shall be adjusted by a proration factor to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(c) (1) If the date specified in subdivision (b) is in March, the taxes on the supplemental assessment for the current roll shall be multiplied by $\frac{3}{12}$ (.25); and the taxes on the supplemental assessment

for the roll being prepared shall be multiplied by $^{12}/_{12}$ (1.00).

(2) If the date specified in subdivision (b) is in April, the taxes on the supplemental assessment for the current roll shall be multiplied by $^{2}/_{12}$ (.17); and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by $^{12}/_{12}$ (1.00).

(3) If the date specified in subdivision (b) is in May, the taxes on the supplemental assessment for the current roll shall be multiplied by $^{1}/_{12}$ (.08); and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by $^{12}/_{12}$ (1.00).

(4) If the date specified in subdivision (b) is in June, no supplemental assessment shall be made on the current roll, and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by $^{12}/_{12}$ (1.00).

(5) If the date specified in subdivision (b) is on or after July 1, and before March 1, the following table of factors shall be used:

If the date is in:	The taxes on the supplemental assessment on the current roll shall be multiplied by:
July	$^{11}/_{12}$ (.92)
August	$^{10}/_{12}$ (.83)
September	$^{9}/_{12}$ (.75)
October	$^{8}/_{12}$ (.67)
November	$^{7}/_{12}$ (.58)
December	$^{6}/_{12}$ (.50)
January	$^{5}/_{12}$ (.42)
February	$^{4}/_{12}$ (.33)

(d) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of this section to determine the amount of refund to which the assessee is entitled.

75.42. The information transmitted to the auditor by the assessor, together with the extended taxes due, or refund to be paid, shall be enrolled on the supplemental roll.

Article 6. Collection of Supplemental Taxes and Payment of Refunds

75.50. The auditor shall transmit supplemental assessments entered on the supplemental roll to the tax collector for preparation of supplemental tax bills, or refunds to be paid, and charge the tax collector with the taxes extended thereon.

75.51. The tax collector shall mail a supplemental tax bill to the assessee, including the following information either on the bill or in a separate statement accompanying the bill:

(a) The information supplied by the assessor to the auditor pursuant to Section 75.40.

(b) The amount of the supplemental taxes due.

(c) The date the notice is mailed.

(d) The date on which the taxes will become delinquent and the penalties for delinquency.

(e) A statement that the supplemental taxes were determined in accordance with Article XIII A of the California Constitution which generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(f) The tax rates or the dollar amounts of taxes levied by each revenue district and taxing agency on the property covered by the tax bill.

75.52. (a) The taxes on the supplemental bill are due on the date mailed and shall become delinquent on the last day of the month following the month in which the bill is mailed.

(b) If the taxes are to be paid in two installments, the first installment shall become delinquent as provided in subdivision (a) and the second installment shall become delinquent on the last day of the fourth calendar month following the date the first installment is delinquent.

(c) If the taxes due are not paid on or before the date they become delinquent, a penalty of 10 percent shall attach to them.

75.53. If all delinquent amounts are not paid in full by June 30 next following the date of delinquency, the property shall be sold to the state as provided in Section 3436.

75.54. Taxes on the supplemental roll become a lien against the real property on the date of the change in ownership or completion of new construction. If there is another change in ownership before the supplemental billing is made, the supplemental assessment shall be entered on the unsecured roll in the name of the person who would have been the assessee if the additional changes in ownership had not occurred, and thereafter shall be treated and collected like other taxes on the unsecured roll.

75.55. If a refund is due the assessee, then the tax collector shall make the refund within 90 days of the date of last payment of taxes due on the assessment made on the current roll and within 90 days of the date of last payment of taxes due on the assessment made on the roll being prepared if the change in ownership occurs or the new construction is completed on or after March 1, but on or before June 30.

Article 7. Disposition of Revenues

75.70. Notwithstanding any other provision of law, for the 1983–84 and the 1984–85 fiscal years, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, an amount equal to the additional revenues generated by the increased assessments under this article.

75.71. For the 1985–86 fiscal year and each fiscal year thereafter,

the county auditor shall allocate the revenue attributable to the supplemental roll in the same manner as the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5.

Article 8. Effective Date

Sec. 75.80. This article shall apply to changes in ownership occurring, and new construction completed, on or after July 1, 1983.

SEC. 134. Section 100.55 is added to the Revenue and Taxation Code, to read:

100.55. Notwithstanding any other provision of law, no reduction shall be made pursuant to Section 100.5 to school entities, as defined by paragraph (5) of subdivision (g) of Section 100.5, for the 1984–85 fiscal year or any fiscal year thereafter.

SEC. 135. Section 17024.5 of the Revenue and Taxation Code, as added by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

17024.5. (a) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of Chapters 2 to 17, inclusive, of this part, means Title 26 of the United States Code, including all amendments thereto in effect on the specified date for the applicable taxable year as follows:

Taxable Year	Effective date of Internal Revenue Code Sections
(1) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(2) For taxable years beginning on or after January 1, 1984.....	January 15, 1983

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992 (a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Net operating losses.

(13) Nonresident aliens.

(14) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (See Section 18162.5 for amounts includable in income for purposes of this part).

(15) Section 1245 of the Internal Revenue Code recovery property.

(16) Recovery property specified in Section 168 of the Internal Revenue Code.

(17) Section 179 of the Internal Revenue Code property.

(18) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(19) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(20) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of this part, any reference to regulations prescribed by "the Secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the Secretary" in effect as of the applicable effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the Secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any

section of the Internal Revenue Code for purposes of this part, any reference to the "Secretary" shall mean the "Franchise Tax Board."

SEC. 136. Section 17048 of the Revenue and Taxation Code, as amended by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

17048. (a) In lieu of the tax imposed under Section 17041, individuals with taxable income of such amounts as prescribed by the Franchise Tax Board, shall compute their taxes under tax tables promulgated by regulation by the Franchise Tax Board. The tax tables shall reflect the tax imposed under Section 17041 in income progressions of not less than one hundred dollars ($100), giving effect to the marital or other status of the individual. For purposes of this part, the tax imposed by this section shall be treated as tax imposed by Section 17041.

(b) Subdivision (a) shall not apply to any of the following:

(1) An individual to whom Article 1 (commencing with Section 18241) of Chapter 15 (relating to income averaging) applies for the taxable year.

(2) An individual to whom Section 17085 (relating to distributions received from qualified pension, profit-sharing and stock bonus plans, and employee annuities) applies for the taxable year.

(3) An individual making a return under Section 443(a) (1) of the Internal Revenue Code for a period of less than 12 months on account of a change in annual accounting period.

(4) An estate or trust.

SEC. 137. Section 17053.7 of the Revenue and Taxation Code is amended to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during a taxable year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to the taxpayer; or

(2) Who, if the taxpayer is an estate or trust, is a grantor,

beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to a grantor, beneficiary, or fiduciary of the estate or trust; or

(3) Who is a dependent (as described in subdivision (i) of Section 17056) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 1984.

SEC. 138. Section 17063 of the Revenue and Taxation Code, as amended by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2).

(b) With respect to each "Section 1250 property" (as defined in Section 1250(c) of the Internal Revenue Code), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 167(k) of the Internal Revenue Code) for which the taxpayer has held the property.

(c) With respect to each item of Section 1245 property (as defined in Section 1245(a) (3) of the Internal Revenue Code) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to the transfer of a share of stock pursuant to the exercise of a qualified stock option (as defined in Section 422(b) of the Internal Revenue Code) or a restricted stock option (as defined in Section 424 of the Internal Revenue Code), the amount by which the fair market value of the share at the time of exercise exceeds the option price.

(e) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

(f) The amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(g) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000). This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for the taxable year and immediately preceding two years is from farming. Nor shall this subdivision apply if the net farm loss is the result of aquaculture activities. For purposes of this subdivision, "aquaculture" means a form of agriculture which is devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water.

(h) The excess of the intangible drilling and development costs described in Section 263(c) of the Internal Revenue Code paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to:

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

SEC. 139. Section 17137 of the Revenue and Taxation Code, as amended by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

17137. The exemption of earnings of ship contractors prescribed by Section 132(a)(4) of the Internal Revenue Code shall not be applicable.

SEC. 140. Section 17141 is added to the Revenue and Taxation Code, to read:

17141. Gross income does not include income derived from an obligation of a Community Energy Authority established under the provisions of Part 3 (commencing with Section 52000) of Division 1 of Title 5 of the Government Code.

SEC. 141. Section 17206 is added to the Revenue and Taxation Code, to read:

17206. (a) Section 165(h)(1)(B) of the Internal Revenue Code, relating to limitation of losses, shall not be applicable to losses occurring before January 1, 1984.

(b) For purposes of computing the deduction allowed under Section 165(c)(3) of the Internal Revenue Code, the term "adjusted gross income," as used in Section 165(h)(1)(B) of the Internal Revenue Code, shall refer to adjusted gross income as shown on the federal tax return for the same taxable year.

SEC. 142. Section 17210 is added to the Revenue and Taxation Code, to read:

17210. For purposes of computing the deduction allowed under Section 213 of the Internal Revenue Code, the term "adjusted gross income," as used in Section 213 of the Internal Revenue Code, shall refer to adjusted gross income as shown on the federal tax return for the same taxable year.

SEC. 143. Section 17286 is added to the Revenue and Taxation Code, to read:

17286. In addition to the deduction denied under Section 162(c)(1) of the Internal Revenue Code, relating to payments made to officials or employees of a foreign government, no deduction shall be allowed for any payment that would be unlawful under the laws of the United States, if those laws were applicable to the payment and to the official or employee.

SEC. 144. Section 17514 is added to the Revenue and Taxation Code, to read:

17514. The provisions of Section 422A of the Internal Revenue Code shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 145. Section 17932 of the Revenue and Taxation Code, as amended by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

17932. (a) Every partnership shall make a return for each taxable year, stating specifically the items of gross income and the deductions allowed by this part. The return shall include the names and addresses of the persons, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each person. The return shall contain or be verified by a written declaration that it is made under

the penalties of perjury, signed by one of the partners.

(b) Each partnership required to file a return under subdivision (a) for any partnership taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a partner at any time during such taxable year a copy of such information shown on such return as may be required by regulations.

SEC. 146. Section 18033 of the Revenue and Taxation Code, as amended by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

18033. Section 1014(b) of the Internal Revenue Code, relating to property acquired from a decedent, shall be modified as follows:

(a) Sections 1014(b)(5) through (10), inclusive, shall not be applicable.

(b) The following property shall be considered to have been acquired from or to have passed from the decedent:

(1) In case of decedents dying on or after January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory or possession of the United States or any foreign country, if the decedent's one-half of the whole of the community interest in such property was transferred, within the meaning of Chapter 3 of the California Inheritance Tax Law, to someone other than the surviving spouse.

(2) In the case of decedents dying after April 8, 1953, but before January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in such property was includable in determining the value of the decedent's gross estate under Chapter 3 of the California Inheritance Tax Law.

(3) In the case of decedents dying after December 31, 1952, and before the annuity starting date, if such date is on or after January 1, 1968, property which represents the survivor's interest in a joint and survivor's annuity if the value of any part of such interest was required to be included in determing the value of decedent's gross estate under the California Inheritance Tax Law.

(4) In the case of decedents dying after December 31, 1954, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or nonexercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's estate under Division 2, Part 8 of the Revenue and Taxation Code. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under Section 1014(a) of the Internal Revenue Code reduced by the amount allowed to the taxpayer as deductions in computing taxable income under this part or prior income tax laws

for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to—

(A) Property described in any other subdivision of this section; and

(B) Annuities described in Sections 72(a) to 72(*l*), inclusive, of the Internal Revenue Code.

SEC. 147. Section 18586.7 is added to the Revenue and Taxation Code, to read:

18586.7. If any person initiates a motion to quash a subpoena, as provided by Sections 7465 through 7476, inclusive, of the Government Code, and that person is the person with respect to whose liability the subpoena is issued (or is the agent, nominee, or other person acting under the direction or control of that person), then the running of any period of limitations under Section 18586 (relating to deficiency assessments) or under Section 18648 (relating to false or fraudulent returns) with respect to that person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of that subpoena is pending.

SEC. 148. Section 18654 is added to the Revenue and Taxation Code, to read:

18654. (a) If the individual who is in physical possession of cash in excess of ten thousand dollars ($10,000) does not claim that cash—

(1) As his or hers, or

(2) As belonging to another person whose identity the Franchise Tax Board can readily ascertain and who acknowledges ownership of that cash, then for purposes of Sections 18641 and 18642, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

(b) In the case of any assessment resulting from the application of subdivision (a)—

(1) The entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

(2) That income shall be treated as taxable at an 11 percent rate, and

(3) Except as provided in subdivision (c), the possessor of the cash shall be treated (solely with respect to that cash) as the taxpayer for purposes of Chapter 18 (commencing with Section 18551) and Chapter 19 (commencing with Section 18801) of this part.

(c) If, after an assessment resulting from the application of subdivision (a), that assessment is abated and replaced by an assessment against the owner of the cash, that later assessment shall be treated for purposes of all laws relating to lien, levy, and collection as relating back to the date of the original assessment.

(d) For purposes of this section, the following definitions apply:

(1) The term "cash" includes any cash equivalent.

(2) The term "cash equivalent" means any of the following:

(A) Foreign currency.

(B) Any bearer obligation.

(C) Any medium of exchange which—

(i) Is of a type which has been frequently used in illegal activities, and

(ii) Is specified as a cash equivalent for purposes of this part in regulations prescribed by the Franchise Tax Board.

(3) Any cash equivalent shall be taken into account—

(A) In the case of a bearer obligation, at its face amount, and

(B) In the case of any other cash equivalent, at its fair market value.

SEC. 149. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. (a) In the case of each failure—

(1) To file a statement of the amount of payments to another person required by—

(A) Section 18802 (relating to information at source),

(B) Section 18803 (relating to payments of interest and corporate dividends),

(C) Section 18802.1 (relating to payments of patronage dividends),

(D) Section 18802.8 (relating to reporting requirements of certain fishing boat operators),

(2) To make a return required by

(A) Section 18802.2 (relating to returns of direct sellers), or

(B) Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the person or employer failing to file a statement referred to in subdivision (a) or a return referred to in subdivision (b) or (c), ten dollars ($10) for each failure, but the total amount imposed on the delinquent person or employer for all failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) If one or more failures to which subdivision (a) applies are due to intentional disregard of the filing requirement, then with respect to those failures—

(1) The penalty imposed under subdivision (a) shall not be less than an amount equal to—

(A) In the case of a return not described in subparagraph (B) of paragraph (2) of subdivision (a), 2 percent of the aggregate amount of the items required to be reported,

(B) In the case of a return for direct sales of five thousand dollars ($5,000) or more, required to be filed by Section 18802.2, twenty dollars ($20) for each such failure, and

(2) The ten thousand dollar ($10,000) limitation under subdivision (a) shall not apply.

The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns or statements required to be furnished after December 31, 1981.

SEC. 150. Section 18681.2 is added to the Revenue and Taxation Code, to read:

18681.2. (a) In addition to the penalty imposed by Section 19406 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under Section 17932 for any taxable year does either of the following:

(1) Fails to file the return at the time prescribed therefor (determined with regard to any extension of time for filing).

(2) Files a return which fails to show the information required under Section 17932, that partnership shall be liable for a penalty determined under subdivision (b) for each month (or fraction thereof) during which that failure continues (but not to exceed five months), unless it is shown that such failure is due to reasonable cause.

(b) For purposes of subdivision (a), the amount determined under this subdivision for any month is the product of the following:

(1) Ten dollars ($10), multiplied by

(2) The number of persons who were partners in the partnership during any part of the taxable year.

(c) The penalty imposed by subdivision (a) shall be assessed against the partnership.

(d) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).

SEC. 151. Section 18684 of the Revenue and Taxation Code is amended to read:

18684. (a) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations, but without intent to defraud, 5 percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this article, shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Sections 18686 through 18697—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and

(2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

(c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 152. Section 18684.4 is added to the Revenue and Taxation Code, to read:

18684.4. (a) A penalty shall be imposed for substantial understatement of tax liability assessed under this part.

(b) The penalty shall be determined in accordance with the provisions of Section 6661 of the Internal Revenue Code.

(c) For purposes of determining the amount of the addition to tax assessed under this section, there shall not be taken into account that portion of the substantial understatement on which a penalty is imposed under Section 18699 (relating to addition to tax in the case of valuation overstatements).

SEC. 153. Section 18684.6 is added to the Revenue and Taxation Code, to read:

18684.6. A penalty shall be imposed for understatement of any taxpayer's liability by a tax return preparer. The penalty shall be determined in accordance with the provisions of Section 6694 of the Internal Revenue Code, except that Section 6694(c) of the Internal Revenue Code shall not be applicable and, in lieu thereof, the following shall apply:

(a) If, within 30 days after the day on which notice and demand of any penalty under Section 6694(a) or 6694(b) of the Internal Revenue Code is made against any person who is an income tax return preparer, that person pays an amount which is not less than 15 percent of the amount of that penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of that penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in subdivision (b). Notwithstanding Section 19081, the beginning of that proceeding or levy during the time that prohibition is in force may be enjoined in a proceeding in the superior court.

(b) If, within 30 days after the day on which a claim for refund of any partial payment of any penalty under Section 6694(a) or 6694(b) of the Internal Revenue Code is denied (or, if earlier, within 30 days after the expiration of six months after the day on which the claim for refund has been filed), the income tax return preparer fails to begin a proceeding in the superior court for the determination of his or her liability for that penalty, subdivision (a) shall cease to apply with respect to that penalty, effective on the day following the close of the applicable 30-day period referred to in this subdivision.

(c) The running of the period of limitations provided in Section 18831 on the collection by levy or by a proceeding in court in respect of any penalty described in subdivision (a) shall be suspended for the period during which the Franchise Tax Board is prohibited from collecting by levy or a proceeding in court.

SEC. 154. Section 18685 of the Revenue and Taxation Code is amended to read:

18685. (a) If any part of any deficiency is due to fraud with intent to evade tax, 50 percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this article, shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Section 18688—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to fraud, and

(2) For the period beginning on the last day prescribed by law for payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

(c) The addition to tax under subdivision (b) shall be in lieu of any amount determined under Section 18684.

(d) In the case of a joint return, this section shall not apply with respect to the tax of a spouse unless some part of the underpayment is due to the fraud of such spouse.

SEC. 155. Section 18685.07 of the Revenue and Taxation Code is amended to read:

18685.07. (a) If any person who is required by regulations prescribed under Section 18934—

(1) To include his identifying number in any return, statement, or other document.

(2) To furnish his identifying number to another person, or

(3) To include in any return, statement, or other document made with respect to another person the identifying number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of five dollars ($5) for each such failure described in paragraph (1) and ten dollars ($10) for each such failure described in paragraph (2) or (3), except that the total amount imposed on that person for all those failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) Article 2 (commencing with Section 18581) of this chapter (relating to deficiency procedures for income taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subdivision (a).

SEC. 156. Section 18693 of the Revenue and Taxation Code is repealed.

SEC. 157. Section 18699 of the Revenue and Taxation Code is amended to read:

18699. (a) If a taxpayer has an underpayment of the tax imposed by this part for the taxable year which is attributable to a valuation

overstatement, then there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributable.

(b) For purposes of subdivision (a), the applicable percentage shall be determined under the following table:

If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
150 percent or more but not more than 200 percent	10
More than 200 percent but not more than 250 percent	20
More than 250 percent	30

(c) (1) For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return is 150 percent or more of the amount determined to be the correct amount of the valuation or adjusted basis (as the case may be).

(2) This section shall not apply to any property which, as of the close of the taxable year for which there is a valuation overstatement, has been held by the taxpayer for more than five years.

(d) This section shall not apply if the underpayment for the taxable year attributable to valuation overstatements is less than one thousand dollars ($1,000).

(e) The Franchise Tax Board may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation or adjusted basis claimed on the return and that the claim was made in good faith.

(f) For purposes of this section, "underpayment" has the meaning given to that term by Section 6653(c)(1) of the Internal Revenue Code of 1954.

(g) This section shall apply to returns filed after December 31, 1981.

SEC. 158. Section 18802 of the Revenue and Taxation Code is amended to read:

18802. (a) Every individual, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, engaged in a trade or business in this state and making payment in the course of such trade or business to another person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this state or any political subdivision of this state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state, having the control, receipt, custody, disposal, or payment of interest (other than interest coupons payable to bearer), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments,

or other fixed or determinable annual or periodical gains, profits, and income amounting to six hundred dollars ($600) or over, paid or payable during any year to any taxpayer, shall make a complete return to the Franchise Tax Board, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, under such regulations and in such form and manner and to such extent as may be prescribed by it.

(b) For purposes of subdivision (a), the term "trade or business" includes the activities of nonprofit organizations.

(c) In cases of annuities with an annuity starting date on and after January 1, 1968, in lieu of the return required by subdivision (a), a duplicate copy of the federal return may be filed with the Franchise Tax Board.

(d) Every entity making a return under subdivision (a) shall furnish to each person whose name is set forth in the return a written statement showing—

(1) The name, address, and identification number of the entity making the return, and

(2) The aggregate amount of payments to the person shown on the return.

The written statement required under this subdivision shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

(e) This section shall not apply to tips with respect to which Section 13055 of the Unemployment Insurance Code applies. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under Section 13055 of the Unemployment Insurance Code. This subdivision shall apply to payments made after December 31, 1978.

(f) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns and statements required to be furnished after December 31, 1981.

SEC. 159. Section 18803.5 is added to the Revenue and Taxation Code, to read:

18803.5. Any person required to file an information return with the Internal Revenue Service under Section 6049(a)(3) of the Internal Revenue Code (relating to payment of interest) or Section 6042(a)(1)(C) of the Internal Revenue Code (relating to payment of dividends) shall be required to report that information to the Franchise Tax Board in such form and manner as it may prescribe.

SEC. 160. Section 18836 is added to the Revenue and Taxation Code, to read:

18836. No person shall be prosecuted, tried, or punished for any of the various offenses arising under this part unless the indictment is found or the information instituted within four years next after the commission of the offense, except that the period of limitation shall be six years for any of the following:

(a) Offenses involving the defrauding or attempting to defraud the State of California or any agency thereof, whether by conspiracy or not, and in any manner.

(b) The offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof.

(c) The offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with, any matter arising under, this part, of a false or fraudulent return, affidavit, claim, or document (whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document).

(d) The offense of willfully failing to pay any tax, or make any return (other than a return required under authority of Chapter 19 (commencing with Section 18801) of this part) at the time or times required by law or regulations.

(e) Offenses described in paragraph (1) of subdivision (a) of Section 19405 (relating to false statements and fraudulent documents).

(f) Offenses where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof.

The time during which the person committing any of the various offenses arising under this part is outside the United States or is a fugitive from justice within the meaning of Section 3290 of Title 18 of the United States Code, shall not be taken as any part of the time limited by law for the commencement of those proceedings. Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the date which is nine months after the date of the making of the complaint before the commissioner of the United States. For the purpose of determining the periods of limitation on criminal prosecutions, the rules of Section 18588 shall be applicable.

SEC. 161. Section 18934 of the Revenue and Taxation Code is amended to read:

18934. Identifying numbers shall be required on state tax returns, statements, or other documents in accordance with the provisions of Section 6109 of the Internal Revenue Code.

SEC. 162. Section 18935 is added to the Revenue and Taxation Code, to read:

18935. An income tax return preparer shall furnish a copy of any state tax return to a taxpayer and retain information in accordance with the provisions of Section 6107 of the Internal Revenue Code.

SEC. 163. Section 19062.11 of the Revenue and Taxation Code is amended to read:

19062.11. (a) Except as provided in subdivisions (b) and (c), if any overpayment of tax imposed by this part is refunded or credited within 90 days after the return is filed, or within 90 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return), whichever is

later, no interest shall be allowed under Section 19062 on such overpayment.

For the purposes of this section, the term "overpayment of tax" shall be defined to include a refund in excess of tax liability as prescribed in subdivision (h) of Section 17053.5.

(b) For the 1982 taxable year, the 90-day time periods specified in subdivision (a) shall be 45 days. For the 1983 taxable year, and each taxable year thereafter, the time periods specified in subdivision (a) shall be 30 days.

(c) In the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

SEC. 164. Section 19405 of the Revenue and Taxation Code is amended to read:

19405. (a) Any person who—

(1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter,

(2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the Personal Income Tax Law, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document,

(3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the Personal Income Tax Law, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed or advises, aids in, or connives at that execution thereof,

(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Chapter 19 (commencing with Section 18801) of this part; or Chapter 5 (commencing with Section 706.010) of Division 2 of, and Chapter 8 (commencing with Section 688.010) of Division 1 of, Title 9 of the Code of Civil Procedure, with intent to evade or defeat the assessment or collection of any tax imposed by this part, or

(5) In connection with any compromise or offer of that compromise in connection with any closing agreement under Section 19132 or offer to enter into any such agreement, willfully does any of the following:

(A) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(B) Receives, withholds, destroys, mutilates, or falsifies any book,

document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than twenty thousand dollars ($20,000) or imprisoned not more than three years, or both, together with the costs of prosecution.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him or her.

SEC. 165. Section 19414 of the Revenue and Taxation Code is amended to read:

19414. Whenever it appears to the State Board of Equalization or any court of record of this state that proceedings before it under this part have been instituted by the taxpayer merely for delay, a penalty in an amount not in excess of five thousand dollars ($5,000) shall be imposed. Any penalty so imposed shall be paid upon notice and demand from the Franchise Tax Board and shall be collected as a tax.

SEC. 166. Section 19415 is added to the Revenue and Taxation Code, to read:

19415. A penalty shall be imposed for promoting abusive tax shelters. The penalty shall be determined in accordance with the provisions of Section 6700 of the Internal Revenue Code.

SEC. 167. Section 19416 is added to the Revenue and Taxation Code, to read:

19416. A penalty shall be imposed for aiding and abetting understatement of tax liability. The penalty shall be determined in accordance with the provisions of Section 6701 of the Internal Revenue Code.

SEC. 168. Section 19417 is added to the Revenue and Taxation Code, to read:

19417. A penalty shall be imposed for filing a frivolous return. The penalty shall be determined in accordance with Section 6702 of the Internal Revenue Code, except that it shall be applied to returns required to be filed under this part.

SEC. 169. Section 19418 is added to the Revenue and Taxation Code, to read:

19418. (a) In any proceeding involving the issue of whether or not any person is liable for a penalty under Section 19415, 19416, or 19417, the burden of proof with respect to that issue shall be on the Franchise Tax Board.

(b) Sections 18590 through 18597, inclusive, (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by Section 19415, 19416, and 19417.

(c) (1) If, within 30 days after the day on which notice and demand of any penalty under Section 19415, 19416, or 19417 is made against any person, that person pays an amount which is not less than

15 percent of the amount of that penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of that penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding Section 19081, the beginning of that proceeding or levy during the time that prohibition is in force may be enjoined by a proceeding in the superior court.

(2) If, within 30 days after the day on which the claim for refund of any partial payment of any penalty under Section 19415, 19416, or 19417 is denied (or, if earlier, within 30 days after the expiration of six months after the day on which a claim for refund was filed), the person fails to begin a proceeding in the superior court for the determination of his or her liability for that penalty, paragraph (1) shall cease to apply with respect to that penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) The running of the period of limitations provided in Section 18831 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Franchise Tax Board is prohibited from collecting by levy or a proceeding in court.

SEC. 170. Section 19419 is added to the Revenue and Taxation Code, to read:

19419. (a) A civil action in the name of the State of California to enjoin any person from further engaging in conduct subject to penalty under Section 19415 (relating to the penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Franchise Tax Board. Any action under this section shall be brought in accordance with the provisions of Section 19407. The court may exercise its jurisdiction over that action separate and apart from any other action brought by the State of California against that person.

(b) In any action under subdivision (a), the court may enjoin the person from engaging in the conduct or in any other activity subject to penalty under Section 19415, if the court finds both of the following:

(1) That the person has engaged in any conduct subject to penalty under Section 19415 (relating to penalty for promoting abusive tax shelters, etc.).

(2) That injunctive relief is appropriate to prevent recurrence of that conduct.

SEC. 171. Section 19420 is added to the Revenue and Taxation Code, to read:

19420. (a) In the case of any civil proceeding which is—

(1) Brought by or against the State of California in connection with the determination, collection, or refund of any tax, interest, or penalty under this part, and

(2) Brought in a court of record of this state, the prevailing party may be awarded a judgment for reasonable litigation costs incurred

in that proceeding.

(b) (1) The amount of reasonable litigation costs which may be awarded under subdivision (a) with respect to any prevailing party in any civil proceeding shall not exceed twenty-five thousand dollars ($25,000).

(2) A judgment for reasonable litigation costs shall not be awarded under subdivision (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to that party under this part.

(3) An award under subdivision (a) shall be made only for reasonable litigation costs which are allocable to the State of California and not to any other party to the action or proceeding.

(4) (A) No award for reasonable litigation costs may be made under subdivision (a) with respect to any declaratory judgment proceeding.

(B) Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in Section 23701d.

(C) For purposes of this section—

(1) (A) The term "reasonable litigation costs" includes any of the following:

(i) Reasonable court costs.

(ii) The reasonable expenses of expert witnesses in connection with the civil proceeding.

(iii) The reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case.

(iv) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.

(2) (A) The term "prevailing party" means any party to any proceeding described in subdivision (a) (other than the State of California or any creditor of the taxpayer involved) which—

(i) Establishes that the position of the State of California in the civil proceeding was unreasonable, and

(ii) (I) Has substantially prevailed with respect to the amount in controversy, or

(II) Has substantially prevailed with respect to the most significant issue or set of issues presented.

(B) Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

(i) By the court, or

(ii) By agreement of the parties.

(3) The term "civil proceeding" includes a civil action.

(d) For purposes of this section, in the case of—

(1) Multiple actions which could have been joined or consolidated, or

(2) A case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single proceeding in the same court, such

actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated for purposes of this section.

(e) An order granting or denying an award for reasonable litigation costs under subdivision (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

(f) This section shall not apply to any proceeding commenced after December 31, 1985.

SEC. 172. Section 23701d of the Revenue and Taxation Code is amended to read:

23701d. (a) Corporations, community chests or trusts, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, (except as otherwise provided in Section 23704.5), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office. An organization is not organized exclusively for exempt purposes listed above unless its assets are irrevocably dedicated to one or more purposes listed in this section. Dedication of assets requires that in the event of dissolution of an organization or the impossibility of performing the specific organizational purposes the assets would continue to be devoted to exempt purposes. Assets shall be deemed irrevocably dedicated to exempt purposes if the articles of organization provide that upon dissolution the assets will be distributed to an organization which is exempt under this section or Section 501(c)(3) of the Internal Revenue Code or to the federal government, or to a state or local government for public purposes; or by a provision in the articles of organization, satisfactory to the Franchise Tax Board; that the property will be distributed in trust for exempt purposes; or by establishing that the assets are irrevocably dedicated to exempt purposes by operation of law. The irrevocable dedication requirement shall not be a sole basis for revocation of an exempt determination made by the Franchise Tax Board prior to the effective date of this amendment.

(b) (1) In the case of a qualified amateur sports organization—

(A) The requirement of subdivision (a) that no part of its activities involve the provision of athletic facilities or equipment shall not apply.

(B) That organization shall not fail to meet the requirements of subdivision (a) merely because its membership is local or regional in nature.

(2) For purposes of this subdivision, "qualified amateur sports organization" means any organization organized and operated exclusively to foster national or international amateur sports competition if that organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

SEC. 173. Section 23701q of the Revenue and Taxation Code, as amended by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

23701q. An organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of Section 120 of the Internal Revenue Code. An organization or trust which receives contributions because of Section 120(c) (5) (C) of the Internal Revenue Code shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

The provisions of this section shall not be applicable after the termination date specified in Section 120(e) of the Internal Revenue Code.

SEC. 174. Section 24272.5 is added to the Revenue and Taxation Code, to read:

24272.5. An amount, determined in accordance with Section 1232A of the Internal Revenue Code, shall be included in the gross income of a holder of an original issue discount bond.

SEC. 175. Section 24305 of the Revenue and Taxation Code is amended to read:

24305. (a) Except as provided in subdivision (b), amounts received under life insurance policies and contracts paid by reason of the death of the insured but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(b) Proceeds of flexible premium contracts payable by reason of death shall be excluded from gross income only in accordance with the provisions of Section 101(f) of the Internal Revenue Code.

SEC. 176. Section 24307 of the Revenue and Taxation Code, as amended by Assembly Bill No. 36 of the 1983–84 Regular Session, is amended to read:

24307. (a) (1) Gross income does not include any amount which (but for this subdivision) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if—

(A) The discharge occurs when the taxpayer is insolvent, or

(B) The indebtedness discharged is qualified business

indebtedness.

(2) Subparagraph (B) of paragraph (1) shall not apply to a discharge to the extent that the taxpayer is insolvent.

(3) In the case of a discharge to which subparagraph (A) of paragraph (1) applies, the amount excluded under subparagraph (A) of paragraph (1) shall not exceed the amount by which the taxpayer is insolvent.

(b) (1) The amount excluded from gross income under subparagraph (A) of paragraph (1) of subdivision (a) shall, except as provided in paragraph (5), be applied to reduce the basis of the property of the taxpayer.

(2) For provisions for making the reduction see Section 24918.

(3) The reduction shall be one dollar ($1) for each dollar excluded by subdivision (a).

(4) The reduction shall be made after the determination of the tax imposed by this chapter for the income year of the discharge.

(5) (A) The taxpayer may elect to apply any portion of the reduction referred to in paragraph (1) to the reduction under Section 24918 of the basis of the depreciable property of the taxpayer.

(B) The amount to which an election under this subdivision applies shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the income year following the income year in which the discharge occurs.

(C) Paragraph (1) shall not apply to any amount to which an election under this subdivision applies.

(c) (1) In the case of a discharge of qualified business indebtedness, the amount excluded from gross income under subparagraph (B) of paragraph (1) of subdivision (a) shall be applied to reduce the basis of the depreciable property of the taxpayer.

(2) For provisions for making the reduction see Section 24918.

(3) The amount excluded under subparagraph (B) of paragraph (1) of subdivision (a) shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the income year following the income year in which the discharge occurs (determined after any reductions under subdivision (b)).

(d) (1) For purposes of this section, the term "indebtedness of the taxpayer" means any indebtedness—

(A) For which the taxpayer is liable, or

(B) Subject to which the taxpayer holds property.

(2) For purposes of this section, the term "insolvent" means the excess of liabilities over the fair market value of assets. With respect to any discharge, whether or not the taxpayer is insolvent, and the amount by which the taxpayer is insolvent, shall be determined on the basis of the taxpayer's assets and liabilities immediately before the discharge.

(3) Indebtedness of the taxpayer shall be treated as qualified business indebtedness if (and only if)—

(A) The indebtedness was incurred or assumed—

(i) By a corporation, or

(ii) By an individual in connection with property used in his trade or business, and

(B) Such taxpayer makes an election under this paragraph with respect to such indebtedness.

(4) The term "depreciable property" has the same meaning as when used in Section 24918.

(5) In the case of a partnership, subdivisions (a), (b), and (c) shall be applied at the partner level.

(6) (A) An election under paragraph (3) of this subdivision or under paragraph (5) of subdivision (b) shall be made on the taxpayer's return for the income year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Franchise Tax Board.

(B) An election referred to in subparagraph (A), once made, may be revoked only with the consent of the Franchise Tax Board.

(C) An election referred to in subparagraph (A) shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(7) For provision that no reduction is to be made in the basis of exempt property of an individual debtor, see Section 24918(c)(1).

(e) For purposes of this title—

(1) Except as otherwise provided in this section, there shall be no insolvency exception from the general rule that gross income includes income from the discharge of indebtedness.

(2) No income shall be realized from the discharge of indebtedness to the extent that payment of the liability would have given rise to a deduction.

(3) The amount taken into account with respect to any discharge shall be properly adjusted for unamortized premium and unamortized discount with respect to the indebtedness discharged.

(4) (A) For purposes of determining income of the debtor from discharge of indebtedness, to the extent provided in regulations prescribed by the Franchise Tax Board, the acquisition of outstanding indebtedness by a person bearing a relationship to the debtor specified in Section 24428 or Section 707(b) of the Internal Revenue Code from a person who does not bear such a relationship to the debtor shall be treated as the acquisition of such indebtedness by the debtor. Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence.

(B) For purposes of this paragraph, Section 24428 and Section 707(b) of the Internal Revenue Code shall be applied as if Section 24429(d) provided that the family of an individual consists of the individual's spouse, the individual's children, grandchildren, and parents, and any spouse of the individual's children or

grandchildren.

(5) If—

(A) The debt of a purchaser of property to the seller of such property which arose out of the purchase of such property is reduced,

(B) Such reduction does not occur when the purchaser is insolvent, and

(C) But for this paragraph, such reduction would be treated as income to the purchaser from the discharge of indebtedness,

then such reduction shall be treated as a purchase price adjustment.

(6) For purposes of determining income of the debtor from discharge of indebtedness, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the shareholder's adjusted basis in the indebtedness.

(7) (A) If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness—

(i) Such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as Section 1245 of the Internal Revenue Code property (as modified by Section 18170),

(ii) The aggregate amount allowed to the creditor—

(I) As deductions under subdivision (a) of Section 24348 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

(II) As an ordinary loss on the exchange,

shall be treated as an amount allowed as a deduction for depreciation, and

(iii) An exchange of such stock qualifying under Section 354(a), 355(a), or 356(a) of the Internal Revenue Code shall be treated as an exchange to which Section 1245(b)(3) of the Internal Revenue Code applies.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

(B) In the case of a taxpayer to whom the portion of subdivision (a) of Section 24348 (relating to reserve for bad debts) applies, the amount determined under clause (ii) of subparagraph (A) shall be the aggregate charges to the reserve resulting from the worthlessness or partial worthlessness of the indebtedness.

(C) In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness had been satisfied in full.

(D) For purposes of this paragraph, stock of a corporation in

control (within the meaning of Section 24564) of the debtor corporation shall be treated as stock of the debtor corporation.

(E) For purposes of this paragraph, the term "debtor corporation" includes a successor corporation.

(F) Under regulations prescribed by the Franchise Tax Board, rules similar to the rules of subparagraphs (A), (B), (C), (D), and (E) of this paragraph shall apply with respect to the indebtedness of a partnership.

(8) For purposes of determining income of the debtor from discharge of indebtedness, the stock for debt exception shall not apply—

(A) To the issuance of nominal or token shares, or

(B) With respect to an unsecured creditor, where the ratio of the value of the stock received by such unsecured creditor to the amount of his indebtedness canceled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

(9) Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of Section 24413.

SEC. 177. Section 24330 of the Revenue and Taxation Code is amended to read:

24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during an income year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (as determined pursuant to Section 24429); or

(2) Who an individual described in paragraph (i).

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for the employer after December 31, 1984.

SEC. 178. Section 24344.5 is added to the Revenue and Taxation Code, to read:

24344.5. A deduction, determined in accordance with Section 163(e) of the Internal Revenue Code, shall be allowed to the issuer of an original issue discount bond.

SEC. 179. Section 24359 of the Revenue and Taxation Code is amended to read:

24359. For purposes of Sections 24357 to 24359, inclusive, the term "charitable contribution" means a contribution or gift to or for the use of—

(a) A state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(b) A corporation, trust, or community chest, fund, or foundation—

(1) Created or organized in the United States or in any possession thereof, or under the law of the United States, any state, the District of Columbia, or any possession of the United States;

(2) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

(3) No part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(4) Which is not disqualified for tax exemption under Section

23701d by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

A contribution or gift by a bank or corporation to a trust, chest, fund, or foundation shall be deductible by reason of this section only if it is to be used within the United States or any of its possessions exclusively for purposes specified in paragraph (2). Rules similar to the rules of subdivision (b) of Section 23701d shall apply for purposes of this section.

(c) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(1) Organized in the United States or any of its possessions, and

(2) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

SEC. 180. Section 24373.5 is added to the Revenue and Taxation Code, to read:

24373.5. A deduction for real property construction period interest and taxes shall only be allowed in accordance with Section 189 of the Internal Revenue Code, except that the exclusion provided by Section 189(d)(2) of the Internal Revenue Code shall be applicable to any residential real property (other than low-income housing) acquired, constructed, or carried by any bank or corporation.

SEC. 181. Section 24455 of the Revenue and Taxation Code is amended to read:

24455. (a) If a corporation redeems its stock (within the meaning of subdivision (b) of Section 24496), and if paragraph (1), (2), (3), or (4) of subdivision (b) applies, such redemption shall be treated as a distribution in part or full payment in exchange for the stock.

(b) (1) Subdivision (a) shall apply if the redemption is not essentially equivalent to a dividend.

(2) (A) Subdivision (a) shall apply if the distribution is substantially disproportionate with respect to the shareholder.

(B) This paragraph shall not apply unless immediately after the redemption the shareholder owns less than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(C) For purposes of this paragraph, the distribution is substantially disproportionate if—

(i) The ratio which the voting stock of the corporation owned

by the shareholder immediately after the redemption bears to all of the voting stock of the corporation at such time, is less than 80 percent of—

(ii) The ratio which the voting stock of the corporation owned by the shareholder immediately before the redemption bears to all of the voting stock of the corporation at such time.

For purposes of this paragraph, no distribution shall be treated as substantially disproportionate unless the shareholder's ownership of the common stock of the corporation (whether voting or nonvoting) after and before redemption also meets the 80 percent requirement of the preceding sentence. For purposes of the preceding sentence, if there is more than one class of common stock, the determinations shall be made by reference to fair market value.

(D) This paragraph shall not apply to any redemption made pursuant to a plan the purpose or effect of which is a series of redemptions resulting in a distribution which (in the aggregate) is not substantially disproportionate with respect to the shareholder.

(3) Subdivision (a) shall apply if the redemption is in complete redemption of all of the stock of the corporation owned by the shareholder.

(4) Subdivision (a) shall apply to a distribution if that distribution is—

(A) In redemption of stock held by a shareholder who is not a corporation, and

(B) In partial liquidation of the distributing corporation.

(5) In determining whether a redemption meets the requirements of paragraph (1), the fact that such redemption fails to meet the requirements of paragraph (2), (3), or (4) shall not be taken into account. If a redemption meets the requirements of paragraph (3) and also the requirements of paragraph (1), (2), or (4), then so much of subdivision (c) (2) as would (but for this sentence) apply in respect of the acquisition of an interest in the corporation within the 10-year period beginning on the date of the distribution shall not apply.

(c) (1) Except as provided in paragraph (2) of this subdivision, subdivision (a) of Section 24497 shall apply in determining the ownership of stock for purposes of this section.

(2) (A) In the case of a distribution described in paragraph (3) of subdivision (b), paragraph (1) of subdivision (a) of Section 24497 shall not apply if—

(i) Immediately after the distribution the distributee has no interest in the corporation (including an interest as officer, director, or employee), other than an interest as a creditor,

(ii) The distributee does not acquire any such interest (other than stock acquired by bequest or inheritance) within 10 years from the date of such distribution, and

(iii) The distributee, at such time and in such manner as the

Franchise Tax Board by regulations prescribes, files an agreement to notify the Franchise Tax Board of any acquisition described in clause (ii) and to retain such records as may be necessary for the application of this paragraph.

If the distributee acquires such an interest in the corporation (other than by bequest or inheritance) within 10 years from the date of the distribution, then the periods of limitation provided in Chapter 20 and Chapter 23 on the making of an assessment and the collection by levy or a proceeding in court shall, with respect to any deficiency (including interest and additions to the tax) resulting from such acquisition, include one year immediately following the date on which the distributee (in accordance with regulations prescribed by the Franchise Tax Board) notifies the Franchise Tax Board of such acquisition; and such assessment and collection may be made notwithstanding any provision of law or rule of law which otherwise would prevent such assessment and collection.

(B) Subparagraph (A) of this paragraph shall not apply if—

(i) Any portion of the stock redeemed was acquired, directly or indirectly, within the 10-year period ending on the date of the distribution by the distributee from a person the ownership of whose stock would (at the time of distribution) be attributable to the distributee under subdivision (a) of Section 24497, or

(ii) Any person owns (at the time of the distribution) stock the ownership of which is attributable to the distributee under subdivision (a) of Section 24497 and such person acquired any stock in the corporation, directly or indirectly, from the distributee within the 10-year period ending on the date of the distribution, unless such stock so acquired from the distributee is redeemed in the same transaction.

The preceding sentence shall not apply if the acquisition (or, in the case of clause (ii), the disposition) by the distributee did not have as one of its principal purposes the avoidance of bank and corporation tax.

(C) (i) Subparagraph (A) shall not apply to a distribution to any entity unless—

(I) That entity and each related person meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A), and

(II) Each related person agrees to be jointly and severally liable for any deficiency (including interest and additions to tax) resulting from an acquisition described in clause (ii) of subparagraph (A).

In any case to which the preceding sentence applies, the second sentence of subparagraph (A) and subparagraph (B) (ii) shall be applied by substituting "distributee or any related person" for "distributee" each place it appears.

(ii) For purposes of this subparagraph—

(I) The term "entity" means a partnership, estate, trust, or corporation; and

(II) The term "related person" means any person to whom ownership of stock in the corporation is (at the time of the distribution) attributable under paragraph (1) of subdivision (a) of Section 24497 if that stock is further attributable to the entity under subdivision (c) of Section 24497.

(d) Except as otherwise provided in this chapter, if a corporation redeems its stock (within the meaning of subdivision (b) of Section 24496), and if subdivision (a) of this section does not apply, such redemption shall be treated as a distribution of property to which Sections 24451 to 24454 applies.

(e) (1) For purposes of paragraph (4) of subdivision (b), a distribution shall be treated as in partial liquidation of a corporation if—

(A) The distribution is not essentially equivalent to a dividend (determined at the corporate level rather than at the shareholder level), and

(B) The distribution is pursuant to a plan and occurs within the taxable year in which the plan is adopted or within the succeeding taxable year.

(2) The distributions which meet the requirements of subparagraph (A) of paragraph (1) shall include (but shall not be limited to) a distribution which meets the requirements of subparagraphs (A) and (B) of this paragraph:

(A) The distribution is attributable to the distributing corporation's ceasing to conduct, or consists of the assets of, a qualified trade or business.

(B) Immediately after the distribution, the distributing corporation is actively engaged in the conduct of a qualified trade or business.

(3) For purposes of paragraph (2), the term "qualified trade or business" means any trade or business which—

(A) Was actively conducted throughout the five-year period ending on the date of the redemption, and

(B) Was not acquired by the corporation within that period in a transaction in which gain or loss was recognized in whole or in part.

(4) Whether or not a redemption meets the requirements of subparagraphs (A) and (B) of paragraph (2) shall be determined without regard to whether or not the redemption is pro rata with respect to all of the shareholders of the corporation.

(5) For purposes of determining under paragraph (4) of subdivision (b) whether any stock is held by a shareholder who is not a corporation, any stock held by a partnership, estate, or trust shall be treated as if it were actually held proportionately by its partners or beneficiaries.

SEC. 182. Section 24457 of the Revenue and Taxation Code is amended to read:

24457. (a) (1) For purposes of Section 24455, if:

(A) One or more persons are in control of each of two

corporations, and

(B) In return for property, one of the corporations acquires stock in the other corporation from the person (or persons) so in control,

then (unless paragraph (2) applies) such property shall be treated as a distribution in redemption of the stock of the corporation acquiring such stock. In any such case, the stock so acquired shall be treated as having been transferred by the person from whom acquired, and as having been received by the corporation acquiring it, as a contribution to the capital of such corporation.

(2) For purposes of Section 24455, if:

(A) In return for property, one corporation acquires from a shareholder of another corporation stock in such other corporation, and

(B) The issuing corporation controls the acquiring corporation, then such property shall be treated as a distribution in redemption of the stock of the issuing corporation.

(b) (1) In the case of any acquisition of stock to which subdivision (a) of this section applies, determinations as to whether the acquisition is, by reason of subdivision (b) of Section 24455, to be treated as a distribution in part or full payment in exchange for the stock shall be made by reference to the stock of the issuing corporation. In applying subdivision (a) of Section 24497 (relating to constructive ownership of stock) with respect to subdivision (b) of Section 24455 for purposes of this paragraph, paragraph (2) of subdivision (a) of Section 24497 shall be applied without regard to the 50 percent limitation contained therein.

(2) (A) In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2)) of subdivision (a) of this section applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the issuing corporation to the acquiring corporation and immediately thereafter distributed by the acquiring corporation.

(B) In the case of any acquisition of stock to which paragraph (2) of subdivision (a) applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the acquiring corporation to the issuing corporation and immediately thereafter distributed by the issuing corporation.

(3) (A) Except as otherwise provided in this paragraph, subdivision (a) (and not Chapter 10) shall apply to any property received in a distribution described in subdivision (a).

(B) (i) Subdivision (a) shall not apply to any liability—

(I) Assumed by the acquiring corporation, or

(II) To which the stock is subject, if that liability was incurred by the transferor to acquire the stock. For purposes of the preceding sentence, the term "stock" means stock referred to in subparagraph (B) of paragraph (1) or subparagraph (A) of paragraph (2) of subdivision (a).

(ii) For purposes of clause (i), an extension, renewal, or

refinancing of a liability which meets the requirements of clause (i) shall be treated as meeting those requirements.

(c) If—

(i) Pursuant to a plan, control of a bank is acquired and within two years after the date on which such control is acquired, stock constituting control of that bank is transferred to a BHC in connection with its formation,

(ii) Incident to the formation of the BHC there is a distribution of property described in subdivision (a), and

(iii) The shareholders of the BHC who receive distributions of that property do not have control of that BHC,

then, subdivision (a) shall not apply to any securities received by a qualified minority shareholder incident to the formation of that BHC.

(D) For purposes of subparagraph (C) and this subparagraph—

(i) The term "qualified minority shareholder" means any shareholder who owns less than 10 percent (in value) of the stock of the BHC. For purposes of the preceding sentence, the rules of paragraph (3) of subdivision (c) shall apply.

(ii) The term "BHC" means a bank holding company (within the meaning of Section 2(a) of the federal Bank Holding Company Act of 1956).

(iii) In the case of a BHC which is formed before 1985, clause (i) of subparagraph (C) shall not apply.

(c) (1) For purposes of this section, control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote, or at least 50 percent of the total value of shares of all classes of stock. If a person (or persons) is in control (within the meaning of the preceding sentence) of a corporation which in turn owns at least 50 percent of the total combined voting power of all stock entitled to vote of another corporation, or owns at least 50 percent of the total value of the shares of all classes of stock of another corporation, then such person (or persons) shall be treated as in control of such other corporation.

(2) For purposes of paragraph (1) of subdivision (a)—

(A) Where one or more persons in control of the issuing corporation transfers stock of that corporation in exchange for stock of the acquiring corporation, the stock of the acquiring corporation received shall be taken into account in determining whether that person is or those persons are in control of the acquiring corporation.

(B) The term "inventory amount" means, in the case of inventory assets distributed during a taxable year, the amount of those inventory assets determined as if the taxable year closed at the time of that distribution.

(3) Subdivision (a) of Section 24497 (relating to the constructive ownership of stock) shall apply for purposes of determining control under this section. For purposes of the preceding sentence, paragraph (2) of subdivision (a) of Section 24497 shall be applied without regard to the 50 percent limitation contained therein.

SEC. 183. Section 24465 of the Revenue and Taxation Code is amended to read:

24465. Section 24464 shall not apply—

(a) (1) If the disposition—

(A) Is not a redemption;

(B) Is not, directly or indirectly, to a person the ownership of whose stock would (under subdivision (a) of Section 24497) be attributable to the shareholder; and

(C) Terminates the entire stock interest of the shareholder in the corporation (and for purposes of this subparagraph, subdivision (a) of Section 24497 shall apply).

(2) If the disposition is a redemption and paragraph (3) or (4) of subdivision (b) of Section 24455 applies.

(b) If the Section 24464 stock is redeemed in a distribution in partial or complete liquidation to which Section 24501 and following apply.

(c) To the extent that, under any provision of this part, gain or loss to the shareholder is not recognized with respect to the disposition of the Section 24464 stock.

(d) If it is established to the satisfaction of the Franchise Tax Board—

(1) That the distribution, and the disposition or redemption; or

(2) In the case of a prior or simultaneous disposition (or redemption) of the stock with respect to which the Section 24464 stock disposed of (or redeemed) was issued, that the disposition (or redemption) of the Section 24464 stock, was not in pursuance of a plan having as one of its principal purposes the avoidance of tax under this part.

SEC. 184. Section 24466 of the Revenue and Taxation Code is amended to read:

24466. (a) For purposes of this chapter, the term "Section 24464 stock" means stock which meets the requirements of paragraph (1), (2), or (3) of this subdivision.

(1) Stock (other than common stock issued with respect to common stock) which was distributed to the shareholder selling or otherwise disposing of such stock if, by reason of subdivision (a) of Section 24463, any part of such distribution was not includable in the gross income of the shareholder.

(2) Stock which is not common stock and—

(A) Which was received, by the shareholder selling or otherwise disposing of such stock, in pursuance of a plan of reorganization (within the meaning of Section 24562), or in a distribution or exchange to which Section 24533 (or so much of Sections 24535 to 24539, inclusive, as relates to Section 24533) applied; and

(B) With respect to the receipt of which gain or loss to the shareholder was to any extent not recognized by reason of Chapter 10, but only to the extent that either the effect of the transaction was substantially the same as the receipt of a stock dividend, or the stock was received in exchange for Section 24464 stock.

For purposes of this article, a receipt of stock to which the foregoing provisions of this paragraph apply shall be treated as a distribution of stock.

(3) Except as otherwise provided in paragraph (2), stock the basis of which (in the hands of the shareholder selling or otherwise disposing of such stock) is determined by reference to the basis (in the hands of such shareholder or any other person) of Section 24464 stock.

(b) For purposes of this article, the term "Section 24464 stock" does not include any stock no part of the distribution of which would have been a dividend at the time of the distribution if money had been distributed in lieu of the stock.

(c) The term "Section 24464 stock" also includes any stock which is not common stock acquired in an exchange to which Section 24521 applied if receipt of money (in lieu of stock) would have been treated as a dividend to any extent. In the case of that stock, rules similar to the rules of paragraph (2) of subdivision (b) of Section 24457 shall apply for purposes of this section.

(d) For purposes of subparagraph (B) of paragraph (2) of subdivision (a) of Section 24466 and subdivision (c) of this section, Section 24497 shall apply. For purposes of applying the preceding sentence to subdivision (c), paragraph (3) of subdivision (b) of Section 24497 and paragraph (3) of subdivision (c) of Section 24497 shall be applied without regard to the 50 percent limitation contained therein.

SEC. 185. Section 24483.5 of the Revenue and Taxation Code is amended to read:

24483.5. (a) (1) If—

(A) A corporation distributes property (other than an obligation of such corporation) to a shareholder in a redemption (to which Article 1 (commencing with Section 24451) applies) of part or all of his stock in such corporation, and

(B) The fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation), then a gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. Sections 24482 and 24483 shall not apply to any distribution to which this section applies.

(2) Paragraph (1) shall not apply to any of the following:

(A) A distribution to a corporate shareholder if the basis of the property distributed is determined under paragraph (3) of subdivision (b) of Section 24455.

(B) A distribution to which paragraph (4) of subdivision (b) of Section 24455 applies and which is made with respect to qualified stock.

(C) A distribution before December 1, 1974, of stock of a corporation substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in Section 23361) as the distributing

corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the one-year period ending on the date of the distribution.

(D) A distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subdivision (d) are met with respect to the distribution.

(E) A distribution to the extent that Section 17329 of the Personal Income Tax Law (relating to distributions in redemption of stock to pay death taxes) applies to such distribution.

(F) A distribution by a corporation to which Section 23701m (relating to and including regulated investment companies) applies, if such distribution is in redemption of the stock upon the demand of the shareholder.

(b) (1) Except as to distributions described in paragraphs (2) and (3), this section and the amendments to paragraph (2) of subdivision (a) of Section 24452, subdivision (b) of Section 24454, and subdivision (c) of Section 24486 at the 1971 First Extraordinary Session of the Legislature shall apply with respect to distributions after December 31, 1970.

(2) A distribution by a corporation of property (held on December 1, 1969, by the distributing corporation or a corporation which was a wholly owned subsidiary of the distributing corporation on such date) in redemption of stock outstanding on November 30, 1969, which is redeemed and canceled before July 31, 1971, if—

(A) Such redemption is pursuant to a resolution adopted before November 1, 1969, by the board of directors authorizing the redemption of a specific amount of stock constituting more than 10 percent of the outstanding stock of the corporation at the time of the adoption of such resolution; and

(B) More than 40 percent of the stock authorized to be redeemed pursuant to such resolution was redeemed before December 30, 1969, and more than one-half of the stock so redeemed was redeemed with property other than money.

(3) A distribution of stock by a corporation organized prior to December 1, 1969, for the principal purpose of providing an equity participation plan for employees of the corporation whose stock is being distributed (hereinafter referred to as the "employer corporation") if—

(A) The stock being distributed was owned by the distributing corporation on November 30, 1969.

(B) The stock being redeemed was acquired before January 1, 1973, pursuant to such equity participation plan by the shareholder presenting such stock for redemption (or by a predecessor of such shareholder),

(C) The employment of the shareholder presenting the stock for redemption (or the predecessor of such shareholder) by the employer corporation commenced before January 1, 1971,

(D) At least 90 percent in value of the assets of the distributing corporation on November 30, 1969, consisted of common stock of the

employer corporation, and

(E) At least 50 percent of the outstanding voting stock of the employer corporation is owned by the distributing corporation at any time within the nine-year period ending one year before the date of such distribution.

(c) For purposes of subdivision (b) and this subdivision—

(1) (A) The term "qualified stock" means stock held by a person (other than a corporation) who at all times during the lesser of—

(i) The five-year period ending on the date of distribution, or

(ii) The period during which the distributing corporation (or a predecessor corporation) was in existence,

held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

(B) Section 24497 shall apply in determining ownership of stock under subparagraph (A); except that, in applying paragraph (1) of subdivision (a) of Section 24497, the term "family" includes any individual described in subdivision (d) of Section 24429 and any spouse of any such individual.

(2) (A) A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the "controlled corporation") meets the requirements of this paragraph if—

(i) That distribution is made with respect to qualified stock,

(ii) Substantially all of the assets of the controlled corporation consists of the assets of one or more qualified businesses,

(iii) No substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation, in a transaction to which Section 24521 applied or as a contribution to capital, within the five-year period ending on the date of the distribution, and

(iv) More than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

(B) For purposes of subparagraph (A)—

(i) The term "qualified business" means any trade or business which—

(I) Was actively conducted throughout the five-year period ending on the date of the distribution, and

(II) Was not acquired by any person within that period in a transaction in which gain or loss was recognized in whole or in part.

(ii) The term "nonbusiness asset" means any asset not used in the active conduct of a trade or business.

SEC. 186. Section 24488 of the Revenue and Taxation Code is amended to read:

24488. In the case of amounts distributed in a redemption to which Section 24455 applies, the part of such distribution which is properly chargeable to capital account shall not be treated as a distribution of earnings and profits.

SEC. 187. Section 24501 of the Revenue and Taxation Code is amended to read:

24501. Amounts received by a shareholder in a distribution in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock.

SEC. 188. Section 24504 of the Revenue and Taxation Code is amended to read:

24504. (a) If property is received in a distribution in complete liquidation (other than a distribution to which Section 24503 applies), and if gain or loss is recognized on the receipt of such property, then the basis of the property in the hands of the distributee shall be the fair market value of such property at the time of the distribution.

(b) (1) If property is received by a corporation in a distribution in a complete liquidation to which subdivision (a) of Section 24502 applies, the basis of the property in the hands of the distributee shall be the same as it would be in the hands of the transferor.

(2) If property is received by a corporation in a transfer to which subdivision (c) of Section 24502 applies, the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

(3) For purposes of this subdivision, the term "distributee" means only the corporation which meets the 80-percent stock ownership requirements specified in subdivision (b) of Section 24502.

(c) If—

(1) Property was acquired by a shareholder in the liquidation of a corporation in cancellation or redemption of stock; and

(2) With respect to such acquisition—

(A) Gain was realized; but

(B) As the result of an election made by the shareholder under Section 24503, the extent to which gain was recognized was determined under Section 24503;

then the basis shall be the same as the basis of such stock canceled or redeemed in the liquidation, decreased in the amount of any money received by the shareholder, and increased in the amount of gain recognized to him.

SEC. 189. Section 24511 of the Revenue and Taxation Code is amended to read:

24511. (a) Except as provided in subdivision (b) and Section 24669 (relating to disposition of installment obligations), no gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation.

(b) (1) If a corporation inventorying goods under the LIFO method distributes inventory assets in complete liquidation, then the LIFO recapture amount with respect to those assets shall be treated as gain to the corporation recognized from the sale of such inventory assets.

(2) Paragraph (1) shall not apply to any liquidation under Section 24502 for which the basis of property received is determined under subdivision (b) of Section 24504.

(3) For purposes of this subdivision, the term "LIFO recapture amount" means the amount (if any) by which—

(A) The inventory amount of the inventory assets under the first-in, first-out method authorized by Section 24701, exceeds

(B) The inventory amount of those assets under the LIFO method.

(4) For purposes of this subdivision—

(A) The term "LIFO method" means the method authorized by Section 24702 as described in Section 24703 (relating to last-in, first-out inventories).

(B) The term "inventory assets" has the meaning given to that term by paragraph (1) of subdivision (b) of Section 24482, and the term "inventory amount" has the meaning given to such term by paragraph (2) of subdivision (b) of Section 24482 (as modified by subdivision (c) of Section 24482).

SEC. 190. Section 24514 of the Revenue and Taxation Code is amended to read:

24514. (a) This section and Sections 24512 and 24513 shall not apply to any sale or exchange—

(1) Made by a collapsible corporation (as defined in Section 17412 of the Personal Income Tax Law), or

(2) Following the adoption of a plan of complete liquidation, if Section 24503 applies with respect to such liquidation, or

(3) Made by a corporation all of whose shareholders are not United States persons (as defined in Section 7701(a)(30) of the Internal Revenue Code of 1954). In the case, however, of a corporation having both United States person and non-United States person shareholders (within the meaning of the preceding sentence) this section and Sections 24512 and 24513 shall apply only to the extent the gain or loss from the sale or exchange represents the United States persons' shareholder interest in the corporation.

(b) In the case of a sale or exchange following the adoption of a plan of complete liquidation, if Section 24502 applies with respect to such liquidation, this section shall not apply.

(c) (1) Subdivision (b) shall not apply to a sale or exchange by a corporation (hereinafter in this subdivision referred to as the "selling corporation") if:

(A) Within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

(B) None of the complete liquidations referred to in subparagraph (A) is a liquidation with respect to which Section 24503 applies.

(2) For purposes of paragraph (1):

(A) The term "distributee corporation" means a corporation in the chain of includable corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period

referred to in paragraph (1) (A).

(B) The term "chain of includable corporation" includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includable corporations for purposes of Section 23361. Such term includes, where appropriate, the common parent corporation.

(d) The amendment made to subdivision (b) by the 1977–78 Regular Session of the Legislature shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1976.

SEC. 191. Section 24516 of the Revenue and Taxation Code is amended to read:

24516. (a) For purposes of this chapter, a distribution shall be treated as in complete liquidation of a corporation if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

(b) The Franchise Tax Board shall prescribe such regulations as may be necessary to ensure that the purpose of subsections (a) and (b) of Section 222 of the Tax Equity and Fiscal Responsibility Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of Sections 24512, 24513, 24514, 24517, 24521, 24532, and 24533, or any other provision of law or regulations.

SEC. 192. Section 24518 is added to the Revenue and Taxation Code, to read:

24518. (a) For purposes of this part, if a purchasing corporation makes an election under this section (or is treated under subdivision (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

(1) Shall be treated as having sold all of its assets at the close of the acquisition date in a single transaction to which Sections 24512, 24513, 24514, and 24517, apply, and

(2) Shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

(b) (1) For purposes of subdivision (a), the assets of the target corporation shall be treated as sold (and purchased) at an amount equal to—

(A) The grossed-up basis of the purchasing corporation's stock in the target corporation on the acquisition date.

(B) Properly adjusted under regulations prescribed by the Franchise Tax Board for liabilities of the target corporation and other relevant items.

(2) For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the purchasing corporation's stock in the target corporation on the acquisition date multiplied by a fraction—

(A) The numerator of which is 100 percent, and

(B) The denominator of which is the percentage of stock (by value) of the target corporation held by the purchasing corporation

on the acquisition date.

(3) The amount determined under paragraph (1) shall be allocated among the assets of the target corporation under regulations prescribed by the Franchise Tax Board.

(c) (1) If during the one-year period beginning on the acquisition date the maximum percentage (by value) of stock in the target corporation held by the purchasing corporation is less than 100 percent, then in applying Sections 24512, 24513, 24514, and 24517 for purposes of paragraph (1) of subdivision (a), the nonrecognition of gain or loss shall be limited to an amount determined by applying that maximum percentage to that gain or loss. The preceding sentence shall not apply if the target corporation is liquidated during that one-year period.

(2) If, in connection with a qualified stock purchase with respect to which an election is made under this section, the target corporation makes a distribution in complete redemption of all of the stock of a shareholder which qualifies under paragraph (3) of subdivision (b) of Section 24455 (determined without regard to the application of clause (ii) of subparagraph (A) of paragraph (2) of subdivision (c) of Section 24455), Section 24511 shall apply to that distribution as if it were a distribution in complete liquidation.

(d) For purposes of this section—

(1) The term "purchasing corporation" means any corporation which makes a qualified stock purchase of stock of another corporation.

(2) The term "target corporation" means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

(3) The term "qualified stock purchase" means any transaction or series of transactions in which stock of one corporation possessing—

(A) At least 80 percent of total combined voting power of all classes of stock entitled to vote, and

(B) At least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), is acquired by another corporation by purchase during the 12-month acquisition period.

(e) (1) A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

(2) Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

(A) That acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business,

(B) The basis of the property acquired is determined (in whole or in part) by reference to the adjusted basis of that property in the hands of the person from whom acquired,

(C) That acquisition was before September 1, 1982.

(D) To the extent provided in regulations, the property acquired

is located outside the United States, or

(E) That acquisition is described in regulations prescribed by the Franchise Tax Board.

(3) Whenever necessary to carry out the purpose of this subdivision and subdivision (f), the Franchise Tax Board may treat stock acquisitions which are pursuant to a plan and which meet the 80 percent requirements of subparagraphs (A) and (B) of paragraph (3) of subdivision (d) as qualified stock purchases.

(f) If a purchasing corporation makes qualified stock purchases with respect to the target corporation and one or more target affiliates during any consistency period, then (except as otherwise provided in subdivision (e))—

(1) Any election under this section with respect to the first such purchase shall apply to each other such purchase, and

(2) No election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

(g) (1) Except as otherwise provided in regulations, an election under this section shall be made not later than 75 days after the acquisition date.

(2) An election by the purchasing corporation under this section shall be made in such manner as the Franchise Tax Board shall by regulations prescribe.

(3) An election by a purchasing corporation under this section, once made, shall be irrevocable.

(h) For purposes of this section—

(1) The term "12-month period" means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase.

(2) The term "acquisition date" means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of that corporation.

(3) (A) The term "purchase" means any acquisition of stock, but only if—

(i) The basis of the stock in the hands of the purchasing corporation is not determined

(I) In whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or

(II) Under Section 18032 (relating to property acquired from a decedent),

(ii) The stock is not acquired in an exchange to which Section 24521 applies, and

(iii) The stock is not acquired from a person the ownership of whose stock would, under Section 24497 (other than subdivision (d) thereof), be attributed to the person acquiring that stock.

(B) If stock in a corporation is acquired by purchase (within the meaning of subparagraph (A)) and, as a result of that acquisition, the corporation making that purchase is treated (by reason of Section 24497) as owning stock in a third corporation, the corporation

making that purchase shall be treated as having purchased that stock in that third corporation. The corporation making that purchase shall be treated as purchasing stock in the third corporation by reason of the preceding sentence on the first day on which the purchasing corporation is considered under Section 24497 as owning that stock.

(4) (A) Except as provided in subparagraph (B), the term "consistency period" means the period consisting of—

(i) The one-year period before the beginning of the 12-month acquisition period for the target corporation,

(ii) That acquisition period (up to and including the acquisition date), and

(iii) The one-year period beginning on the date after the acquisition date.

(B) The period referred to in subparagraph (A) shall also include any period during which the Franchise Tax Board determines that there was in effect a plan to make a qualified stock purchase plus one of more other qualified stock purchases (or asset acquisitions described in subdivision (e)) with respect to the target corporation or any target affiliate.

(5) The term "affiliated group" has the meaning given to such term by Section 1504(a) of the Internal Revenue Code (determined without regard to the exceptions contained in Section 1504(b) of the Internal Revenue Code).

(6) (A) A corporation shall be treated as a target affiliate of the target corporation if each of those corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

(B) Except as otherwise provided in regulations (and subject to such conditions as may be provided in regulations)—

(i) The term "target affiliate" does not include a foreign corporation, and

(ii) Stock held by a target affiliate in a foreign corporation shall be excluded from the operation of this section.

(7) Except as otherwise provided in regulations, an acquisition of stock or assets by any member of an affiliated group which includes a purchasing corporation shall be treated as made by the purchasing corporation.

(8) Except as otherwise provided in paragraph (9) or in regulations prescribed under this paragraph, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in paragraph (1) of subdivision (a).

(9) (A) Under regulations prescribed by the Franchise Tax Board, an election may be made under which if—

(i) The target corporation was, before the transaction, a member of the selling consolidated group, and

(ii) The target corporation recognizes gain or loss with respect to the transaction as if it sold all of its assets in a single transaction, then the target corporation shall be treated as a member of the selling

consolidated group with respect to that sale, and (to the extent provided in regulations) no gain or loss will be recognized on stock sold or exchanged in the transaction by members of the selling consolidated group.

(B) For purposes of subparagraph (A), the term "selling consolidated group" means any group of corporations which (for the taxable period which includes the transaction)—

(i) Includes the target corporation, and

(ii) Files a combined return.

(i) The Franchise Tax Board shall prescribe such regulations as may be necessary to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them at stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the combined return regulations).

SEC. 193. Section 24535 of the Revenue and Taxation Code is amended to read:

24535. (a) If—

(1) Section 24531, 24532 or 24533 would apply to an exchange but for the fact that—

(2) The property received in the exchange consists not only of property permitted by Section 24531, 24532 or 24533 to be received without the recognition of gain but also of other property to money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(b) If an exchange is described in subdivision (a) but has the effect of the distribution of a dividend (determined with the application of subdivision (a) of Section 24497), then there shall be treated as a dividend to each distributee such an amount of the gain recognized under subdivision (a) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under subdivision (a) shall be treated as gain from the exchange of property.

SEC. 194. Section 24562 of the Revenue and Taxation Code is amended to read:

24562. (a) For purposes of Chapters 8 (commencing with Section 24451) and 9 (commencing with Section 24501) and this chapter, the term "reorganization" means—

(1) A statutory merger or consolidation;

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535;

(5) A recapitalization;

(6) A mere change in identity, form, or place of organization of one corporation, however effected; or

(7) A transfer by a corporation of all or part of its assets to another corporation in a Title 11 or similar case; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, such transaction shall be treated as described only in paragraph (4) of subdivision (a).

(2) If—

(A) One corporation acquires substantially all of the properties of another corporation;

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock; and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation;

then such acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1),

paragraph (2) or paragraph (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets or stock. A similar rule shall apply to a transaction otherwise qualifying under paragraph (7) of subdivision (a) where the requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met with respect to the acquisition of the assets or stock.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) or paragraph (7) of subdivision (a), if—

(A) No stock of the acquiring corporation is used in the transaction, and

(B) In the case of a transaction under paragraph (1) of subdivision (a), such transaction would have qualified under paragraph (1) of subdivision (a) had the merger been into the controlling corporation.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if—

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning

of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph the term "investment company" means a regulated investment company, a real estate investment trust, or a corporation 50 percent or more of the value of whose total assets are stock and securities and 80 percent or more of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

(F) If an investment company which does not meet the requirements of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in Section 24562(a)(2) (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange.

(G) For purposes of subparagraphs (b) and (c), the term "securities" includes obligations of state and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940, 15 U.S.C. 80a-2(36).

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

(d) (1) For purposes of this chapter, the term "Title 11 or similar case" means—

(A) A case under Title 11 of the United States Code, to the extent this chapter is not in conflict with Section 346 (q) (17) (C) of Title 11, or

(B) A receivership, foreclosure, or similar proceeding in a federal or state court.

(2) In applying paragraph (7) of subdivision (a), a transfer of the assets of a corporation shall be treated as made in a Title 11 or similar case if and only if—

(A) Any party to the reorganization is under the jurisdiction of the court in such case, and

(B) The transfer is pursuant to a plan of reorganization approved by the court.

(3) If a transaction (but for this paragraph) qualify both—

(A) Under paragraph (7) of subdivision (a), and

(B) Under any other paragraph of subdivision (a) or under Section 24502 or 24521, then, for purposes of this chapter (other than Section 24540 (c) (1)), such transaction shall be treated as qualifying only under paragraph (7) of subdivision (a).

(4) For purposes of paragraphs (1) and (2), in the case of a receivership, foreclosure, or similar proceeding before a federal or state agency involving a financial institution to which Section 585 or 593 of the Internal Revenue Code applies, the agency shall be treated as a court.

(5) In the case of a Title 11 or similar case, the requirement of subparagraph (B) of paragraph (5) of subdivision (b) shall be treated as met if—

(A) No former shareholder of the surviving corporation received any consideration for his stock, and

(B) The former creditors of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, debt of the surviving corporation which had a fair market value equal to 80 percent or more of the total fair market value of the debt of the surviving corporation.

SEC. 195. Section 24602 of the Revenue and Taxation Code is amended to read:

24602. (a) For taxable years ending before January 1, 1984, then in the income year when paid, in an amount determined in accordance with Section 24601, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 401 (a) (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (22) of the Internal Revenue Code, and, if applicable, the requirements of Section 401 (a) (9), (10), (17), and (18) and of Section 401 (d) (other than paragraph (1)) of the Internal Revenue Code, and if refunds of premiums, if any, are applied within the current income year or next succeeding income year toward the purchase of such retirement annuities.

(b) For taxable years beginning after December 31, 1983, then in the income year when paid, in an amount determined in accordance

with Section 24601, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 401(a)(3), (4), (5), (6), (7), (8), (9), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (22) of the Internal Revenue Code, and, if applicable, the requirements of Section 401(a)(10) and of Section 401 (d), and if refunds of premiums, if any, are applied within the current income year or next succeeding income year toward the purchase of such retirement annuities.

SEC. 196. Section 24603 of the Revenue and Taxation Code is amended to read:

24603. (a) In the income year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such income year ends within or with an income year of the trust with respect to which the trust is exempt under Section 17501 of this code, in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the income year to all employees under the stock bonus or profit-sharing plan. If in any income year there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible shall be carried forward and be deductible when paid in the succeeding income years in order of time, but the amount so deductible under this sentence in any such succeeding income year shall not exceed 15 percent of the compensation otherwise paid or accrued during such succeeding income year to the beneficiaries under the plan, but the amount so deductible under this sentence in any one succeeding income year together with the amount so deductible under the first sentence of this subdivision shall not exceed 25 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. In addition, any amount paid into the trust in any income year in excess of the amount allowable with respect to such year under the preceding provisions of this subsection shall be deductible in the succeeding income years in order of time, but the amount so deductible under this sentence in any one such succeeding income year together with the amount allowable under the first sentence of this subsection shall not exceed 15 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. The term "stock bonus or profit-sharing trust," as used in this subsection, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determine actuarially as provided in Section 24601. If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for purposes of applying the limitations in this subsection.

(b) In the case of a profit-sharing plan, or a stock bonus plan in which contributions are determined with reference to profits, of a

group of corporations which is an affiliated group within the meaning of Section 1504 of the Federal Internal Revenue Code of 1954, if any member of such affiliated group is prevented from making a contribution which it would otherwise have made under the plan, by reason of having no current or accumulated earnings or profits or because such earnings or profits are less than the contributions which it would otherwise have made, then so much of the contribution which such member was so prevented from making may be made, for the benefit of the employees of such member, by the other members of the group, to the extent of current or accumulated earnings or profits, except that such contribution by each such other member shall be limited, where the group does not file a consolidated return, to that proportion of its total current and accumulated earnings or profits remaining after adjustment for its contribution deductible without regard to this subsection which the total prevented contribution bears to the total current and accumulated earnings or profits of all members of the group remaining after adjustment for all contributions deductible without regard to this subsection. Contributions made under the preceding sentence shall be deductible under subsection (a) by the employer making such contribution, and, for the purpose of determining amounts which may be carried forward and deducted under the second sentence of subsection (a) in succeeding income years, shall be deemed to have been made by the employer on behalf of whose employees such contributions were made.

(c) The term "compensation otherwise paid or accrued during the taxable year to all employees" shall include any amount with respect to which an election under Section 415(c)(3)(C) of the Internal Revenue Code is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable.

SEC. 197. Section 24667 of the Revenue and Taxation Code is amended to read:

24667. (a) Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this part under the installment method.

(b) For purposes of this section—

(1) The term "installment sale" means a disposition of property where at least one payment is to be received after the close of the income year in which the disposition occurs.

(2) The term "installment sale" does not include—

(A) A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.

(B) A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close of the income year.

(c) For purposes of this section, the term "installment method" means a method under which the income recognized for any income year from a disposition is that proportion of the payments received

in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

(d) (1) Subdivision (a) shall not apply to any disposition if the taxpayer elects to have subdivision (a) not apply to such disposition.

(2) Except as otherwise provided, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this part for the income year in which the disposition occurs. Such an election shall be made in the manner prescribed by the Franchise Tax Board.

(3) An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Franchise Tax Board.

(e) (1) If—

(A) Any person disposes of property to a related person (hereinafter in this subdivision referred to as the "first disposition"), and

(B) Before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subdivision referred to as the "second disposition"),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

(2) (A) Except in the case of marketable securities, paragraph (1) shall apply only if the date of the second disposition is not more than two years after the date of the first disposition.

(B) The running of the two-year period set forth in subparagraph (A) shall be suspended with respect to any property for any period during which the related person's risk of loss with respect to the property is substantially diminished by—

(i) The holding of a put with respect to such property (or similar property),

(ii) The holding by another person of a right to acquire the property, or

(iii) A short sale or any other transaction.

(3) The amount treated for any income year as received by the person making the first disposition by reason of paragraph (1) shall not exceed the excess of—

(A) The lesser of—

(i) The total amount realized with respect to any second disposition of the property occurring before the close of the income year, or

(ii) The total contract price for the first disposition, over

(B) The sum of—

(i) The aggregate amount of payments received with respect to the first disposition before the close of such year, plus

(ii) The aggregate amount treated as received with respect to the first disposition for prior income years by reason of this subsection.

(4) For purposes of this subdivision, if the second disposition is not a sale or exchange, an amount equal to the fair market value of the property disposed of shall be substituted for the amount realized.

(5) If paragraph (1) applies for any taxable year, payments received in subsequent taxable years by the person making the first disposition shall not be treated as the receipt of payments with respect to the first disposition to the extent that the aggregate of such payments does not exceed the amount treated as received by reason of paragraph (1).

(6) For purposes of this subdivision—

(A) Any sale or exchange of stock to the issuing corporation shall not be treated as a first disposition.

(B) A compulsory or involuntary conversion (within the meaning of Section 24944) and any transfer thereafter shall not be treated as a second disposition if the first disposition occurred before the threat or imminence of the conversion.

(C) Any transfer after the earlier of—

(i) The death of the person making the first disposition, or

(ii) The death of the person acquiring the property in the first disposition,

and any transfer thereafter shall not be treated as a second disposition.

(7) This subdivision shall not apply to a second disposition (and any transfer thereafter) if it is established to the satisfaction of the Franchise Tax Board that neither the first disposition nor the second disposition had as one of its principal purposes the avoidance of bank and corporation tax.

(8) The period for assessing a deficiency with respect to a first disposition (to the extent such deficiency is attributable to the application of this subdivision) shall not expire before the day which is two years after the date on which the person making the first disposition furnishes (in such manner as the Franchise Tax Board may prescribe) a notice that there was a second disposition of the property to which this subdivision may have applied. Such deficiency may be asessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

(f) For purposes of this section—

(1) Except for purposes of subdivisions (g) and (h), the term "related person" means a person whose stock would be attributed under Section 24497 (other than subdivision (d) thereof) to the person first disposing of the property.

(2) The term "marketable securities" means any security for which, as of the date of the disposition, there was a market on an established securities market or otherwise.

(3) Except as provided in paragraph (4), the term "payment" does not include the receipt of evidences of indebtedness of the person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person).

(4) Receipt of a bond or other evidence of indebtedness which—

(A) Is payable on demand, or

(B) Is issued by a corporation or a government or political subdivision thereof and is readily tradable,

shall be treated as receipt of payment.

(5) For purposes of paragraph (4), the term "readily tradable" means a bond or other evidence of indebtedness which is issued—

(A) With interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

(B) In any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.

(6) In the case of any exchange described in subdivision (b) of Section 24941—

(A) The total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,

(B) The gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of subdivision (b) of Section 24941, and

(C) The term "payment," when used in any provision of this section other than paragraph (1) of subdivision (b), shall not include any property permitted to be received in such exchange without recognition of gain.

Similar rules shall apply in the case of an exchange which is described in Section 24535 and is not treated as a dividend.

(7) The term "depreciable property" means property of a character which (in the hands of the transferee) is subject to the allowance for depreciation provided in Section 24349.

(g) (1) In the case of an installment sale of depreciable property between related persons within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code, subdivision (a) shall not apply, and, for purposes of this part, all payments to be received shall be deemed received in the year of the disposition.

(2) Paragraph (1) shall not apply if it is established to the satisfaction of the Franchise Tax Board that the disposition did not have as one of its principal purposes the avoidance of bank and corporation tax.

(h) (1) (A) If, in connection with a liquidation to which Section 24512 applies, in a transaction to which Section 24501 applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period set forth in subdivision (b) of Section 24512, then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

(B) Subparagraph (A) shall not apply to an installment obligation described in paragraph (2) of subdivision (a) of Section 24513 unless

such obligation is also described in paragraph (2) of subdivision (b) of Section 24513.

(C) If the obligor of any installment obligation and the shareholder are related persons (within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code), to the extent such installment obligation is attributable to the disposition by the corporation of depreciable property—

(i) Subparagraph (A) shall not apply to such obligation, and

(ii) For purposes of this part, all payments to be received by the shareholder shall be deemed received in the year the shareholder receives the obligation.

(D) For purposes of subparagraph (A) of paragraph (1) of subdivision (e), disposition of property by the corporation shall be treated also as disposition of such property by the shareholder.

(E) For purposes of subparagraph (A), in any case to which subdivision (c) of Section 24514 applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder.

(2) If—

(A) Paragraph (1) applies with respect to any installment obligation received by a shareholder from a corporation, and

(B) By reason of the liquidation such shareholder receives property in more than one income year,

then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such income years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

(i) (1) The Franchise Tax Board shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.

(2) The regulations prescribed under paragraph (1) shall include regulations providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

SEC. 198. Section 24903 is added to the Revenue and Taxation Code, to read:

24903. The tax treatment of stripped bonds and stripped coupons shall be made in accordance with Section 1232B of the Internal Revenue Code, except that Section 1232B(d) of the Internal Revenue Code shall be applicable only to obligations the interest of which is exempt from tax under this part.

SEC. 199. Section 25663d is added to the Revenue and Taxation Code, to read:

25663d. If any corporation initiates a motion to quash a subpoena, as provided by Sections 7465 through 7476, inclusive, of the Government Code, and that corporation is the corporation with respect to whose liability the subpoena is issued (or is the agent,

nominee, or other person acting under the direction or control of that corporation), then the running of any period of limitations under Section 25663 (relating to deficiency assessments) or under Section 25731 (relating to false or fraudulent returns) with respect to that corporation shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of that subpoena is pending.

SEC. 200. Section 25904 of the Revenue and Taxation Code is repealed.

SEC. 201. Section 25934 of the Revenue and Taxation Code is amended to read:

25934. (a) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations, but without intent to defraud, 5 percent of the total amount of the deficiency, in addition to such deficiency and other additions provided in this chapter, shall be assessed, collected and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Sections 25901 through 25905—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and

(2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

(c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 202. Section 25934.4 is added to the Revenue and Taxation Code, to read:

25934.4. (a) A penalty shall be imposed for substantial understatement of liability for bank and corporation franchise tax or corporation income tax assessed under this part.

(b) The penalty shall be determined in accordance with the provisions of Section 6661 of the Internal Revenue Code.

(c) The provisions of Section 6661 (b) (3) of the Internal Revenue Code shall not be applicable.

SEC. 203. Section 25934.6 is added to the Revenue and Taxation Code, to read:

25934.6. A penalty shall be imposed for understatement of any taxpayer's liability by a tax return preparer. The penalty shall be determined in accordance with the provisions of Section 6694 of the Internal Revenue Code, except that Section 6694 (c) of the Internal Revenue Code shall not be applicable and, in lieu thereof, the following shall apply:

(a) If within 30 days after the day on which notice and demand of any penalty under Section 6694 (a) or (b) of the Internal Revenue

Code is made against any person who is an income tax return preparer, that person pays an amount which is not less than 15 percent of the amount of that penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of that penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in subdivision (b). Notwithstanding Section 26101, the beginning of that proceeding or levy during the time that prohibition is in force may be enjoined in a proceeding in the superior court.

(b) If, within 30 days after the day on which a claim for refund of any partial payment of any penalty under Section 6694(a) or (b) of the Internal Revenue Code is denied (or, if earlier, within 30 days after the expiration of six months after the day on which the claim for refund has been filed), the income tax return preparer fails to begin a proceeding in the superior court for the determination of his or her liability for that penalty, subdivision (a) shall cease to apply with respect to that penalty, effective on the day following the close of the applicable 30-day period referred to in this subdivision.

(c) The running of the period of limitations provided in Section 26251 on the collection by levy or by a proceeding in court in respect of any penalty described in subdivision (a) shall be suspended for the period during which the Franchise Tax Board is prohibited from collecting by levy or a proceeding in court.

SEC. 204. Section 25935 of the Revenue and Taxation Code is amended to read:

25935. (a) If any part of any deficiency is due to fraud with intent to evade tax, 50 percent of the total amount of the deficiency, in addition to the deficiency and other additions provided in this article, shall be assessed, collected and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Section 25901b—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to fraud, and

(2) For the period beginning on the last day prescribed by law for payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

(c) The addition to tax under this subdivision (b) shall be in lieu of any amount determined under Section 25934.

SEC. 205. Section 25957 is added to the Revenue and Taxation Code, to read:

25957. A penalty shall be imposed for promoting abusive tax shelters. The penalty shall be determined in accordance with the provisions of Section 6700 of the Internal Revenue Code.

SEC. 206. Section 25957.1 is added to the Revenue and Taxation Code, to read:

25957.1. A penalty shall be imposed for aiding and abetting

understatement of tax liability. The penalty shall be determined in accordance with the provisions of Section 6701 of the Internal Revenue Code.

SEC. 207. Section 25957.2 is added to the Revenue and Taxation Code, to read:

25957.2. A penalty shall be imposed for filing a frivolous return. The penalty shall be determined in accordance with Section 6702 of the Internal Revenue Code, except that it shall be applied to returns required to be filed under this part.

SEC. 208. Section 25959.3 is added to the Revenue and Taxation Code, to read:

25959.3. (a) In any proceeding involving the issue of whether or not any person is liable for a penalty under Section 25959, 25959.1 or 25959.2, the burden of proof with respect to that issue shall be on the Franchise Tax Board.

(b) Sections 25664 through 25668, inclusive, (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by Section 25959, 25959.1, or 25959.2.

(c) (1) If, within 30 days after the day on which notice and demand of any penalty under Section 25959, 25959.1, or 25959.2 is made against any corporation, that corporation pays an amount which is not less than 15 percent of the amount of that penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of that penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding Section 25963, the beginning of that proceeding or levy during the time that prohibition is in force may be enjoined by a proceeding in the superior court.

(2) If, within 30 days after the day on which the claim for refund of any partial payment of any penalty under Section 25959, 25959.1, or 25959.2 is denied (or, if earlier, within 30 days after the expiration of six months after the day on which a claim for refund was filed), the corporation fails to begin a proceeding in the superior court for the determination of its liability for that penalty, paragraph (1) shall cease to apply with respect to that penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) The running of the period of limitations provided in Section 26251 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Franchise Tax Board is prohibited from collecting by levy or a proceeding in court.

SEC. 209. Section 25961 of the Revenue and Taxation Code is amended to read:

25961. Any individual or corporation or any officer or employee of any corporation, who, with intent to evade any tax or any requirement of this part, willfully fails to file any return or to supply

any information within the time required by or under the provisions of this part, or who, willfully and with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information, is punishable by imprisonment in the county jail not longer than one year or in the state prison or by fine of not more than twenty thousand dollars ($20,000), or by both such fine and imprisonment, at the discretion of the court.

SEC. 210. Section 25962 of the Revenue and Taxation Code is amended to read:

25962. (a) Any person who—

(1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter,

(2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the Bank and Corporation Tax Law, of a return, affidavit, claim or other document, which is fraudulent or is false as to any material matter, whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document,

(3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the Bank and Corporation Tax Law, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed or advises, aids in, or connives at that execution thereof,

(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Chapter 23 (commencing with Section 26131) of this part, with intent to evade or defeat the assessment or collection of any tax imposed by this part, or

(5) In connection with any compromise or offer of that compromise in connection with any closing agreement under Section 25781 or offer to enter into any such agreement, willfully does any of the following:

(A) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(B) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall be guilty of a felony and, upon conviction thereof, shall be fined not more that one hundred thousand dollars ($100,000) or imprisoned not more than three years, or both, together with the costs of prosecution.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for

all purposes that the return, statement, or other document was actually signed by him or her.

SEC. 211. Section 25965 is added to the Revenue and Taxation Code, to read:

25965. (a) A civil action in the name of the State of California to enjoin any corporation from further engaging in conduct subject to penalty under Section 25957 (relating to the penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Franchise Tax Board. Any action under this section shall be brought in accordance with the provisions of Section 25963. The court may exercise its jurisdiction over that action separate and apart from any other action brought by the State of California against that corporation.

(b) In any action under subdivision (a), the court may enjoin that corporation from engaging in that conduct or in any other activity subject to penalty under Section 25957 if the court finds both of the following:

(1) That the corporation has engaged in any conduct subject to penalty under Section 25957 (relating to penalty for promoting abusive tax shelters, etc.).

(2) That injunctive relief is appropriate to prevent recurrence of that conduct.

SEC. 212. Section 26080 of the Revenue and Taxation Code is amended to read:

26080. Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this part, at the adjusted annual rate established pursuant to Section 19269 as follows:

(a) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this part.

(b) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the Franchise Tax Board.

(c) In the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

SEC. 213. Section 26491 is added to the Revenue and Taxation Code, to read:

26491. (a) In the case of any civil proceeding which is—

(1) Brought by or against the State of California in conection with the determination, collection, or refund of any tax, interest, or penalty under this part, and

(2) Brought in a court of record of this state, the prevailing party may be awarded a judgment for reasonable litigation costs incurred in that proceeding.

(b) (1) The amount of reasonable litigation costs which may be awarded under subdivision (a) with respect to any prevailing party

in any civil proceeding shall not exceed twenty-five thousand dollars ($25,000).

(2) A judgment for reasonable litigation costs shall not be awarded under subdivision (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to that party under this part.

(3) An award under subdivision (a) shall be made only for reasonable litigation costs which are allocable to the State of California and not to any other party to the action or proceeding.

(4) (A) No award for reasonable litigation costs may be made under subdivision (a) with respect to any declaratory judgment proceeding.

(B) Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in Section 23701d.

(c) For purposes of this section—

(1) (A) The term "reasonable litigation costs" includes any of the following:

(i) Reasonable court costs.

(ii) The reasonable expenses of expert witnesses in connection with the civil proceeding.

(iii) The reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case.

(iv) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.

(2) (A) The term "prevailing party" means any party to any proceeding described in subdivision (a) (other than the State of California or any creditor of the taxpayer involved) which—

(i) Establishes that the position of the State of California in the civil proceeding was unreasonable, and

(ii) (I) Has substantially prevailed with respect to the amount in controversy, or

(II) Has substantially prevailed with respect to the most significant issue or set of issues presented.

(B) Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

(i) By the court, or

(ii) By agreement of the parties.

(3) The term "civil proceeding" includes a civil action.

(d) For purposes of this section, in the case of—

(1) Multiple actions which could have been joined or consolidated, or

(2) A case or cases involving a return or returns of the same taxpayer which could have been joined in a single proceeding in the same court, those actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat

such actions or cases as joined or consolidated for purposes of this section.

(e) An order granting or denying an award for reasonable litigation costs under subdivision (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

(f) This section shall not apply to any proceeding commenced after December 31, 1985.

SEC. 214. Section 328 of the Unemployment Insurance Code is amended to read:

328. (a) The department shall administer the California Jobs Tax Credit Act of 1979 as provided in this section, except those functions reserved to the Franchise Tax Board by Section 17053.7 or Section 24330 of the Revenue and Taxation Code. The department shall develop administrative procedures and guidelines necessary to carry out the intent of such act, including, but not limited to, the means to monitor and measure its effectiveness.

(b) The department shall certify, upon the request of any applicant, for the purposes of Section 17053.7 or 24330 of the Revenue and Taxation Code, that any individual, at the time of his or her hiring by such applicant, meets any of the following criteria:

(1) He or she is a recipient of aid under the Aid to Families with Dependent Children program pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, for not less than 90 days immediately preceding his or her date of hire.

(2) He or she is a registrant in a work incentive program established pursuant to Section 5200.

(3) He or she is a recipient of aid under the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled pursuant to Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code for any month which falls within the 60-day period immediately preceding his or her date of hire.

(4) He or she is a recipient, for at least 30 days during the 60-day period immediately preceding his or her date of hire, of general assistance (county aid and relief to indigents) pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, from a county whose program has been certified by the Internal Revenue Service for purposes of the federal Targeted Jobs Tax Credit program under Section 321 of Public Law 95-600, as amended by Section 233(d) of Public Law 97-248.

(5) He or she is a "qualified summer youth employee" for purposes of the federal Targeted Jobs Tax Credit program, as defined under Section 233(b) of Public Law 97-248.

(c) If an individual has been certified as meeting any of the criteria in subdivision (b) and that certification is incorrect because it was based on false information provided by that individual, the

certification shall be revoked, and the department shall immediately notify the applicant who requests the certification of the revocation.

SEC. 215. Section 650 of the Unemployment Insurance Code is amended to read:

650. "Employment" does not include services performed as a real estate, mineral, oil and gas, or cemetery broker or as a real estate, cemetery or direct sales salesperson by an individual if all of the following conditions are met:

(a) The individual is licensed under the provisions of Chapter 19 (commencing with Section 9600) of Division 3 of, or Part 1 (commencing with Section 10000) of Division 4 of, the Business and Professions Code or is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment.

(b) Substantially all of the remuneration (whether or not paid in cash) for the services performed by that individual is directly related to sales or other output (including the performance of services) rather than to the number of hours worked by that individual.

(c) The services performed by the individual are performed pursuant to a written contract between that individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to those services for state tax purposes.

SEC. 216. Section 13004.1 is added to the Unemployment Insurance Code, to read:

13004.1. "Employee" does not include any individual if all of the following conditions exist:

(a) The individual is licensed pursuant to the provisions of Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code and is performing services in the capacity of a licensee, or the individual is engaged in the trade or business of primarily in-person demonstration and sales presentation of consumer products in the home or sales to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis, for resale by the buyer or any other person in the home or otherwise than in a retail or wholesale establishment.

(b) Substantially all of the remuneration (whether or not paid in cash) for the services performed by that individual is directly related to sales or other output (including the performance of services) rather than to the number of hours worked by that individual.

(c) The services performed by the individual are performed pursuant to a written contract between that individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to those services for state tax purposes.

SEC. 217. Section 13020.5 is added to the Unemployment Insurance Code, to read:

13020.5. Whenever an employer is required, by the provisions of Section 3402(s) of the Internal Revenue Code, to deduct and withhold from certain payments where an identifying number is not furnished or is inaccurate, the employer shall additionally be required to deduct and withhold from that payment a state tax equal to 5 percent of that payment.

SEC. 218. Section 13051 of the Unemployment Insurance Code is amended to read:

13051. (a) (1) If a person or employer fails to file a statement of the aggregate amount of payments to another person required by subdivision (c) of Section 13050, unless the failure is due to reasonable cause and not to willful neglect, the person or employer shall pay ten dollars ($10) for each failure but the total amount imposed on the delinquent person or employer for all failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(2) If one or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to those failures, all of the following shall apply:

(A) The penalty imposed under paragraph (1) shall not be less than an amount equal to 2 percent of the aggregate amount of the items required to be reported.

(B) The ten thousand dollars ($10,000) limitation under paragraph (1) shall not be applicable.

(3) The penalty shall be assessed and collected in the same manner as the tax.

(b) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to statements required to be furnished after December 31, 1981.

(c) The amendments to this section made by the 1983–84 Regular Session of the Legislature shall apply to statements required to be furnished after December 31, 1983.

SEC. 219. The repeal of Sections 18693 and 25904 of the Revenue and Taxation Code by this act shall be applicable as of July 1, 1983.

SEC. 220. The addition of Section 17141 to the Revenue and Taxation code made by this act shall become operative only if Assembly Bill 1659 of the 1983–84 Regular Session is chaptered.

SEC. 221. Transitional rules for the liquidation of existing personal service corporations shall be allowed in accordance with the provisions of Section 247 of Public Law 97-248.

SEC. 222. Regulations adopted to implement the provisions of this act relating to the Revenue and Taxation Code shall be adopted as emergency regulations. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These emergency regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 223. It is the intent of the Legislature that revenues

generated pursuant to the provisions of Assembly Bill No. 1086 of the 1983–84 Regular Session are to be used for the support of public education.

SEC. 224. (a) The Legislature recognizes that the amendments to Section 1253.3 of the Unemployment Insurance Code enacted by Chapter 60 of the Statutes of 1983 will save the state approximately five million dollars ($5,000,000) annually, while increasing costs to the state special schools by approximately two hundred fifty thousand dollars ($250,000) in the 1983–84 fiscal year and each fiscal year thereafter by requiring those schools to provide unemployment insurance benefits for nonprofessional employees. It is the intent of the Legislature to redirect a portion of the savings realized by the state from the enactment of Chapter 60 of the Statutes of 1983 to cover the additional costs imposed by that enactment upon the state special schools.

(b) For the purpose of implementing the legislative intent set forth in subdivision (a), there is hereby appropriated from the General Fund from the amount saved by the state pursuant to Section 1253.3 of the Unemployment Insurance Code, as amended by Chapter 60 of the Statutes of 1983, to the Department of Finance an amount not to exceed two hundred fifty thousand dollars ($250,000). The department shall allocate the funds to the Superintendent of Public Instruction for apportionment to the state special schools. This amount shall supplement, and shall not supplant, the funds appropriated pursuant to Item 6100-006-001 of the Budget Act of 1983, and shall be used exclusively for the purpose of paying the additional costs imposed upon the state special schools by Section 1253.3 of the Unemployment Insurance Code, as amended by Chapter 60 of the Statutes of 1983.

SEC. 225. Notwithstanding any other provision of law, the Los Alamitos Unified School District shall, for the purpose of its revenue limit for the 1983–84 school year, receive as its total revenue limit the total amount of money it would have received assuming that there had been enrolled in the school district for the 1982–83 school year the pupils attending the schools of the Los Alamitos Unified School District plus those pupils attending schools of the Seal Beach Elementary School District, which is being annexed to the Los Alamitos Unified School District effective July 1, 1983, plus those high school pupils living within the Seal Beach Elementary School District who attended high school during the 1982–83 school year. Added to such total revenue limit shall be any increases provided generally for school districts for the 1983–84 school year.

Due to the unique circumstances concerning the Los Alamitos Unified School District, 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. 226. The State Board of Education, upon recommendation by the Superintendent of Public Instruction, shall approve a model course of study in computer education for pupils in kindergarten and

grades 1 through 12, and shall submit the course of study to the Legislature for review on or before July 1, 1984.

SEC. 227. (a) The Office of Administrative Hearings shall report to the Legislature by July 1, 1985, regarding the number of cases in which certificated employees have been suspended pursuant to Section 44944 of the Education Code.

(b) The Public Employees' Relations Board shall report to the Legislature by July 1, 1985, regarding the extent to which school districts have adopted collective bargaining agreements which permit the suspension of certificated employees.

SEC. 228. (a) The State Department of Education shall study the feasibility of developing and maintaining an automated school facilities inventory that is capable of indicating the statewide percentage of facility utilization; projecting school facility needs five years in advance; and allocating funds for new construction, maintenance, and rehabilitation.

(b) The State Department of Education shall study the appropriateness of existing architectural standards and the type of building materials used for school facilities.

The studies conducted pursuant to this section shall be completed by March 1, 1984.

SEC. 229. (a) The Superintendent of Public Instruction shall submit a report to the Joint Legislative Budget Committee on or before November 15, 1983, regarding the feasibility of conducting a study to identify the characteristics of students who drop out of school prior to high school graduation, and the costs of requiring continuation schools to increase their data collection regarding those students.

Data to be collected regarding these students' characteristics may include, but not be limited to, any of the following:

(1) Age.
(2) Grade.
(3) Sex.
(4) Racial or ethnic background.
(5) English-speaking ability.
(6) Length of attendance at school.
(7) Placement, if any, in special education programs or classes.
(8) Grade retentions, if any.
(9) Reasons, if any, for being in special education programs or classes.
(10) The number of pregnant minors.
(11) Employment status.
(12) Family status.

(b) Based upon the feasibility report submitted by the Superintendent of Public Instruction pursuant to subdivision (a), the Joint Legislative Budget Committee shall determine the appropriate level of funding, if any, for the study regarding the characteristics of dropouts.

SEC. 230. (a) On or before November 15, 1983, the

Superintendent of Public Instruction shall submit a report to the Joint Legislative Budget Committee regarding the feasibility of conducting a study of the current high school accreditation process administered by private accreditation associations, which may include, but shall not be limited to, an analysis of the criteria employed by accreditation associations, the cost of accreditation, and the numbers of annual accreditations over the past five years. The report may also include specific recommendations by the superintendent as to any revisions in the accreditation process, including the consideration of the development of statewide standards which would establish uniform standards and make the accreditation of high schools a viable tool in the evaluation of the quality of the public secondary schools.

(b) On the basis of the report submitted pursuant to subdivision (a), the committee shall determine the appropriate level of funding, if any, for the study regarding accreditation.

SEC. 231. The State Board of Education and the Superintendent of Public Instruction shall review the regulations adopted by the State Board of Education pursuant to Section 52164.6 of the Education Code, regarding reclassification of pupils of limited English proficiency. The review shall include specific recommendations for any necessary changes in statutes or regulations to ensure appropriate educational services for pupils served by the provisions of Chapter 1339 of the Statutes of 1980.

SEC. 232. It is the intent of the Legislature in amending Section 62000 of the Education Code to continue the programs specified in former subdivision (a) of Section 62000.

It is further the intent of the Legislature that the programs specified in former subdivision (a) of Section 62000 shall not be deemed to have been terminated on July 1, 1983, but rather that these programs shall be deemed to continue in existence without any modification unless otherwise prescribed by law.

Therefore, the amendment to Section 62000 of the Education Code made by this act shall be deemed to have become operative July 1, 1983.

SEC. 233. There is hereby appropriated from the General Fund to the Superintendent of Public Instruction for apportionment for purposes of the California Writing Project the following sums:

(a) For the 1983–84 fiscal year	$250,000
(b) For the 1984–85 fiscal year	250,000

SEC. 234. There is hereby appropriated from the General Fund to the Superintendent of Public Instruction for apportionment for purposes of the California Assessment Program the following sums:

(a) For the 1983–84 fiscal year	$200,000
(b) For the 1984–85 fiscal year	200,000

SEC. 235. There is hereby appropriated from the General Fund

to the Student Aid Commission for administration costs incurred pursuant to Article 6 (commencing with Section 69600) of Chapter 2 of Part 42 of the Education Code, the following sums:

(a) For the 1983–84 fiscal year	$100,000
(b) For the 1984–85 fiscal year	100,000

SEC. 236. Notwithstanding Section 3525 of the Elections Code or any other provision of law to the contrary, if the Legislature adopts Assembly Constitutional Amendment 44 during the 1983–84 Regular Session, it shall be submitted to the voters by the Secretary of State at the first special or regular statewide election conducted on or after June 5, 1984, and occurring at least 131 days after the adoption of the measure by the Legislature.

SEC. 237. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. 238. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 239. 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 permit this act to become operative as early as possible in the 1983–84 school year, and so facilitate the orderly administration of the public school system, it is necessary that this act take effect immediately.

CHAPTER 499

An act to add Section 25673.1 to the Health and Safety Code, relating to health.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 25673.1 is added to the Health and Safety Code, to read:

25673.1. (a) Notwithstanding Section 2052 of the Business and

Professions Code or any other provision of law, a radiologic technologist certified pursuant to this chapter may, under the direct supervision of a licensed physician and surgeon, assist a licensed physician and surgeon in completing an injection to administer contrast materials, manually or by utilizing a mechanical injector, after the performance of venipuncture or arterial puncture by a person authorized to perform those tasks.

(b) Nothing in this section shall be construed to grant radiologic technologists the authority to perform venipuncture or arterial puncture, or to administer contrast materials.

(c) "Direct supervision," for purposes of this section, means the direction of procedures authorized by this section by a licensed physician and surgeon who shall be physically present in the room during the performance of the procedures and actually observing the procedures.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 500

An act to amend Section 5751 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 5751 of the Welfare and Institutions Code is amended to read:

5751. The Director of Mental Health, after approval by the California Conference of Local Mental Health Directors, shall by regulation establish standards of education and experience for professional, administrative, and technical personnel employed in mental health services and for the organization and operation of mental health services. No regulations shall be adopted by the state or any county, nor shall any procedures be implemented by a local mental health program or contract agency, which prohibit a psychiatrist, psychologist, clinical social worker, registered nurse, or marriage, family and child counselor from employment in a local mental health program in any professional, administrative, or technical positions in mental health services, provided that any

service delivery functions shall be performed within the scope of his or her license. No person shall be considered for any position which is outside his or her scope of licensure.

This section shall not require the hiring of any person. The administrators of the Short-Doyle program shall be responsible for determining who is hired.

Appointments of directors, program chiefs, and comparable positions, and unit or treatment team leaders shall be made on the basis of professional competence. No local program or its contractors may restrict such appointments to one discipline. Each local program and its contractors shall consider applications from, and make appointments equally open to, all professions that are eligible pursuant to this section.

Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. These standards may include the maintenance of records of service which shall be reported to the State Department of Mental Health in a manner and at such times as it may specify.

Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist. psychologist, clinical social worker, marriage, family and child counselor, registered nurse, or hospital administrator, who meets standards of education and experience established by the Director of Mental Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2051 of the Business and Professions Code.

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 501

An act to amend Section 56362.5 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 56362.5 of the Education Code is amended to read:

56362.5. By July 1982, the Commission on Teacher Credentialy shall adopt rules and regulations for a resource specialist certificate of competence. The certificate shall provide all the following:

(a) Definition of the competencies required of a resource specialist.

(b) Provision for a system of direct application to the commission for a certificate of competence for each teacher who holds a valid special education credential, other than an emergency credential, and who satisfies any one of the following criteria:

(1) Provided instruction and services as specified in subdivision (a) of Section 80070.1 of Title 5 of the California Administrative Code as it read immediately prior to the operative date of this section, for two years prior to September 1, 1981.

(2) Provided instruction and services as specified in subdivision (b) of Section 80070.2 of Title 5 of the California Administrative Code as it read immediately prior to the operative date of this section, for two years prior to June 30, 1983.

(c) Provision for the issuance, for up to three years, of a preliminary nonrenewable certificate of competence for the resource specialist, and adoption of the standards for the issuance and continuing validity of such a certificate.

(d) Establishment of a system for verification of competencies through both of the following:

(1) Commission on Teacher Credentialy approved institution of higher education resource specialist certificate program.

(2) Commission on Teacher Credentialy approved competency assessment panels for resource specialist certification.

(e) Cooperation with the department in implementing these provisions.

Notwithstanding any other provision of law, any person who held a preliminary resource specialist certificate of competence on January 28, 1982, and who met the requirements for a clear resource specialist certificate of competence as specified in paragraph (1) of subdivision (b) may be issued a clear resource specialist certificate of competence upon submission of a completed application, but without any additional fee.

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 that teachers applying for a certificate of competence may demonstrate their competence at the earliest possible time without the payment of an additional fee, it is necessary that this act take effect immediately.

CHAPTER 502

An act to amend Section 437.13 of the Health and Safety Code, relating to health.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 437.13 of the Health and Safety Code is amended to read:

437.13. (a) Notwithstanding any other provision of law, no proposal for the remodeling of any licensed health facility, or for the construction of any new health facility to replace in whole or in part any existing licensed health facility, or for the replacement of the equipment or services of any licensed health facility, shall be required to be approved as provided in this part, unless the proposal involves one of the following:

(1) An increase in bed capacity.

(2) The conversion of a facility in one category of licensure to a different category of licensure.

(3) The conversion of any of a health facility's existing beds from one classification set forth in Section 1250.1 to another classification, except as authorized by Section 437.10.

(4) A significant expansion or addition of diagnostic or therapeutic capability, or a significant expansion or addition of services.

(5) Location of the health facility on a site which is not the same site or immediately adjacent thereto.

(6) The remodeling or replacement of any special service set forth in subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of Section 1255, which exceeds a cost of six hundred thousand dollars ($600,000), unless a certificate of need has been obtained for such remodeling or replacement of such special service.

(7) The replacement of any diagnostic or therapeutic equipment at a cost in excess of four hundred thousand dollars ($400,000), when such equipment has been in operation for five years or less. For the purposes of this paragraph, the purchase or lease of one or more

articles of functionally related diagnostic or therapeutic equipment, as determined by the state department, shall be considered together.

(8) The replacement or remodeling of patient rooms and nursing stations costing in excess of six hundred thousand dollars ($600,000), unless such replacement or remodeling meets the requirements of subdivision (b).

(9) Except as provided in subdivision (c), a project for the remodeling or replacement of all or any portion of a health facility or equipment thereof which is not limited to a project specified in paragraph (6), (7), or (8) of this subdivision and the cost of which exceeds the lesser of one million five hundred thousand dollars ($1,500,000) or four thousand dollars ($4,000) multiplied by the health facility's total authorized bed capacity, excluding the cost of projects covered in paragraph (6), (7), or (8).

(b) Any project specified in paragraph (8) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if any of the following conditions are met:

(1) Where the health facility has over the previous three years experienced an average licensed bed occupancy rate of over 80 percent, the licensed bed capacity shall not be required to be reduced by a remodeling or replacement proposal.

(2) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 76 nor more than 80 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 95 percent of the licensed bed capacity prior to the project.

(3) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 71 nor more than 75 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the licensed bed capacity prior to the project.

(4) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 66 nor more than 70 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 85 percent of the licensed bed capacity prior to the project.

(5) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not more than 65 percent, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 80 percent of the licensed bed capacity prior to the project.

(6) Where the health facility serves a medically underserved population in a medically underserved area as determined by the

Health Manpower Policy Commission and the facility's average bed occupancy rate over the previous three years was in excess of 65 percent, the licensed bed capacity shall not be required to be reduced. Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the health facility's average bed occupancy rate is below 65 percent over the previous three years, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the facility's licensed bed capacity prior to the project.

(c) Any project specified in paragraph (9) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if the applicant demonstrates to the satisfaction of the director that the project is necessary in order for the facility to be able to continue the provision of service in a manner consistent with current standards of practice, and that the project meets all of the following criteria:

(1) The proposed space in square feet for the project, upon completion, is not more than 5 percent net above the statewide average number of square feet per licensed bed in services or departments of comparably sized facilities approved in California during the previous two years pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5 unless the applicant demonstrates to the satisfaction of the director special requirements for additional space.

(2) Financial resources exist to successfully complete and implement the project, and the financing will not result in an undesirable increase in patient charges in the facility.

(3) The project promotes fiscal economies through measures that assure efficiency and effectiveness, which may include the operation of joint cooperative or shared facility health resources and maximum utilization of facilities.

(4) Less costly alternatives for the project were evaluated by the applicant and found not to be as desirable as the proposed project.

(5) The cost of equipment and construction is within reasonable limits and range for the area, type of project, and projected operational cost.

(6) The size of the project is based on historical or reasonably projected utilization of the service, equipment, or facility.

The state department shall adopt regulations further defining the specifics of the criteria set forth in this subdivision.

(d) In reviewing a proposal for a certificate of exemption for remodeling a health facility or for the replacement of equipment or services of a health facility which is not eligible for a certificate of exemption because of paragraph (8) of subdivision (a), or for remodeling or replacing a basic emergency center or its equipment which is not eligible for a certificate of exemption because of paragraph (6) of subdivision (a), when the health facility has been

purchased for the purpose of providing services to existing members and reasonably anticipated members of a comprehensive group practice prepayment health care service plan, the medical services, of which, are provided by at least 200 physicians in group practice, who provide at least 75 percent of the medical services they deliver to members of the comprehensive group health care service plan, and which is licensed under the Knox-Keene Health Care Service Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) and qualified as a health maintenance organization under Title XIII of the federal Public Health Service Act (42 U.S.C., Sec. 300e et seq.), the state department, after a public hearing thereon, shall grant a certificate of exemption if the applicant: (1) demonstrates that the project is necessary to meet the needs of such members; (2) meets the criteria in paragraphs (1) to (6), inclusive, of subdivision (c); (3) does not violate paragraphs (1) to (7), inclusive, of subdivision (a), except that remodeling or replacing a basic emergency center shall not be considered a violation of paragraph (6) of subdivision (a) for such purpose; (4) submits a letter of intent to undertake the proposed project within two years of the date of purchase of the facility; and (5) records in the office of the county recorder of the county in which the health facility is located a written agreement not to sell, lease, or rent the facility for five years without the permission of the state department, and which shall particularly describe the real property subject to the agreement and be indexed in the grantor index to all record owners of the real property and to the grantee index to the state department. The failure to so record such an agreement gives any person who becomes a purchaser, lessee, or renter of the facility during the term of the agreement the right of rescission or damages for one year from the date of discovery of the failure to record.

(e) For all purposes, including those specified in Section 14105.5 of the Welfare and Institutions Code and in Section 1268 of this code, it shall be deemed that a certificate of need has been issued for any proposal issued a certificate of exemption under this section.

Health facilities desiring an exemption under this section shall, pursuant to regulations of the state department, submit an application and plans to the state department. The state department shall inform the applicant in writing of its determination as to eligibility of the applicant's proposal for such exemption within 60 calendar days of receipt of the application. If the state department determines that the proposal is not eligible for such exemption, the applicant may reapply for a certificate of need as provided in Section 438 or seek judicial review.

CHAPTER 503

An act to amend Section 798.50 of, and to add Section 798.24 to, the Civil Code, relating to mobilehome parks.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 798.24 is added to the Civil Code, to read:

798.24. Each common area facility shall be open or available to residents at all reasonable hours and the hours of the common area facility shall be posted at the facility.

SEC. 2. Section 798.50 of the Civil Code is amended to read:

798.50. The management shall permit meetings by homeowners or occupants of a mobilehome in the park, or any or all of them, relating to mobilehome living or social or educational purposes to be held in any of the park community or recreation halls if the meeting is held at a reasonable hour and when the facility is not otherwise in use.

SEC. 3. Section 798.50 of the Civil Code is amended to read:

798.50. The management shall permit meetings by homeowners or residents of a mobilehome in the park, or any or all of them, relating to mobilehome living or social or educational purposes to be held in any of the park community or recreation halls if the meeting is held at a reasonable hour and when the facility is not otherwise in use.

SEC. 4. Section 3 of this bill incorporates amendments to Section 798.50 of the Civil Code proposed by both this bill and AB 1052. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 798.50 of the Civil Code, and (3) this bill is enacted after AB 1052, in which case Section 2 of this bill shall not become operative.

CHAPTER 504

An act to amend Sections 74602, 74604, 74605, 74606, 74607, and 74610 of the Government Code, relating to courts.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 74602 of the Government Code is amended to read:

74602. (a) Facilities for the court shall be maintained in the City

of San Luis Obispo, Grover City, and the City of Paso Robles. The court shall hold sessions at each facility, as business requires. At the direction of the presiding judge, any traffic referee or juvenile court hearing officer appointed pursuant to Section 74605 may perform his or her duties at such facilities and in the City of Atascadero and the City of Morro Bay. At the direction of the court, arraignment of criminal defendants who are in custody at the San Luis Obispo County Jail facility shall be held at that facility.

(b) The judges of the court shall be reimbursed for traveling expenses at the rate provided for employees of the county in accordance with the county travel policy.

SEC. 2. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the court executive officer who shall be appointed by the presiding judge with the concurrence of a majority of the judges of the court and shall hold office at his pleasure. The monthly compensation to be paid to the court executive officer shall be Range 1721, Step 5 of the San Luis Obispo County Salary Table. In addition to any other duties imposed on such officer by law, the court executive officer shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court.

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

(h) To provide for and conduct a program of in-service training for the personnel of the municipal court.

SEC. 3. Section 74605 of the Government Code is amended to read:

74605. (a) Notwithstanding Section 72400, the presiding judge of the court may also appoint the court executive officer to serve as traffic referee without additional compensation, provided such officer has been a member of the State Bar of California for five years.

(b) Notwithstanding any other provision of law, the court executive officer may be appointed by the juvenile court judge of the superior court to serve as a juvenile court hearing officer without additional compensation.

SEC. 4. Section 74606 of the Government Code is amended to read:

74606. The county sheriff shall be ex officio marshal of the court and shall act as such without additional compensation. The sheriff may appoint up to four deputies, or more if the business of the court requires, to be ex officio deputy marshals.

SEC. 5. Section 74607 of the Government Code is amended to read:

74607. The presiding judge may make appointments to the following authorized positions:

Number	*Classification*	*Salary Range*
1	Assistant clerk	1016
5	Municipal court clerk IV	0714
4	Municipal court clerk III	0675
9	Municipal court clerk II	0593
18	Municipal court clerk I	0508
1	Accounting technician	0681
1	Account clerk	0533
2	Data entry operator 1	0550

SEC. 6. Section 74610 of the Government Code is amended to read:

74610. (a) The positions enumerated in Sections 74604, 74607, and 74608 are deemed to be comparable in job and salary level to certain positions in the service of San Luis Obispo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Court classification	County classification
Court executive officer	Attorney IV (confidential)
Municipal court clerk IV	Superior court clerk
Municipal court clerk III	Supervising administrative clerk I
Municipal court clerk II	Senior typist-clerk
Municipal court clerk I	Intermediate typist-clerk
Accounting technician	Accounting technician
Account clerk	Account clerk

In the event that the salary for any classification which is shown above is increased by the board of supervisors, a commensurate increase shall be made in the salary for the comparable court classification. Salary adjustments made pursuant to this section shall be effective the same date as the effective date of action of the board of supervisors applicable to the respective and comparable county

classifications, but shall remain effective only until January 1 of the second year following the year in which such an adjustment in salary is made.

(b) Whenever the salary of the position of municipal court clerk IV is adjusted pursuant to subdivision (a), the salary of the position of assistant clerk shall be adjusted by an equivalent percentage.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 505

An act to add and repeal Sections 25402.3, 25402.5, and 25402.6 of the Public Resources Code, relating to building standards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 25402.3 is added to the Public Resources Code, to read:

25402.3. The energy budget requirements of Section 2-5351 of Part 2 of Title 24 of the California Administrative Code may be met for any group of residential buildings by showing with an approved calculation method that a simple arithmetic average of the estimated energy budget for all buildings in the group is equal to or less than the prescribed maximum energy budget. To be eligible for this averaging approach, all buildings shall meet the following requirements:

(a) All buildings in the group shall be of a particular model type, provided that each reverse plan and elevation of a specific model type shall be eligible for averaging in the same group of buildings.

(b) All buildings in the group shall be located in the same contiguous subdivision, as defined in Section 66424 of the Government Code.

(c) Applications for permits for all buildings in the group shall be filed on the same day and shall each indicate the group of buildings to which the averaging approach is to be applied.

(d) The permit applicant for any building permitted pursuant to this section shall provide to potential buyers of the building a notice indicating that it is part of a group of buildings for which compliance with energy conservation standards was made by averaging the performance of all the buildings in the group and that the

performance of that building relative to the performance standard shall be made available upon request.

For purposes of this section, "approved calculation method" means calculations made by the commission's public domain computer program, one of the commission's simplified calculation methods, or any other calculation method approved by the executive director of the commission.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 2. Section 25402.5 is added to the Public Resources Code, to read:

25402.5. In the annual publication of the State Building Standards Code next following the effective date of this section, the State Building Standards Commission shall incorporate in Section 2-5351 of Part 2 of Title 24 of the California Administrative Code, for each climate zone listed in Section 2-5351, an additional alternative component package that contains each of the components described in subdivisions (a) to (m), inclusive. Any of those additional compliance provisions adopted or incorporated under this section shall only be operative until January 1, 1987. Immediately upon the effective date of this section, any prescribed energy budget requirements for space heating and cooling of residential buildings of Section 2-5351 of Part 2 of Title 24 of the California Administrative Code may be met for residential buildings in the 16 climate zones defined in that section, if the buildings are built with the following components:

(a) The glazing area of the building, defined as the area of glazing in exterior openings including the sash area, is limited to the following percentages of the conditioned floor space in the building, that is provided with a heat supply or method of cooling by equipment that has a capacity rating in excess of 10 British Thermal Units per hour per one square foot of floor area, for the specified climate zones; provided, however, that the glazing is dual pane glass with an overall thermal transmittance no higher than 0.65 British Thermal Units per hour per square foot of glazing area per degree Fahrenheit:

(1) Twenty percent for zones 3, 4, 6, 7, 8, 9, and 10.

(2) Sixteen percent for all other zones.

(b) The walls are insulated with a material of a minimum thermal resistance of R-11 in all zones, except (1) in zone 1, a material of a minimum thermal resistance of R-19 is required for all buildings and (2) in zones 14 and 16 a material of a minimum thermal resistance of R-19 is required only for buildings with raised floors.

(c) For buildings with slab floors, the slab floor perimeter is insulated to a minimum thermal resistance of R-7 in zone 16.

(d) For buildings with raised floors, the floor is insulated with a material with a minimum thermal resistance of R-19 in all zones and, in zones 6 to 10, inclusive, 12, 13, and 15, the building incorporates

thermal mass with performance equivalent to masonry two inches thick, with a volumetric heat capacity of 28 British Thermal Units per cubic foot per degree Fahrenheit per hour and a thermal conductivity of one British Thermal Unit per square foot per foot per degree Fahrenheit per hour and a surface area directly exposed to the room air of 5 percent of the conditioned ground floor space in zones 6, 7, 8, 10, 12, 13, and 15, and 10 percent of the conditioned ground floor space in zone 9.

(e) For buildings with slab floors, 25 percent of the total area of the slab on grade is directly exposed to the conditioned space.

(f) Shading is installed to achieve a shading coefficient of 0.36 or its equivalent for glazing on the sides of the building in the following zones:

(1) For zones 6 and 11, shading of west-facing glazing, defined as within 45 degrees from due west.

(2) For zones 8, 9, 10, 12, 13, 14, and 15, shading of all glazing.

(3) For buildings with raised floors in zone 7, shading of all glazing within 45 degrees of due west.

For purposes of this subdivision, "shading coefficient" means the ratio of the solar heat gain through a glazing system, corrected for external and internal shading, to the solar heat gain through an unshaded single pane of double strength glass under the same set of conditions.

(g) The heating system type is natural gas or heat pumps in all zones with installed devices capable of automatically reducing thermostat settings at night or when the building is not occupied. In the case of heat pumps, those automatic thermostat devices shall be required only in buildings for which building permit applications were filed on or after August 1, 1983, in climate zones 1, 3, 5, 7, 15, and 16, and in buildings for which permit applications are filed on or after July 1, 1984, in all other zones.

(h) The domestic water heating system is natural gas, heat pump, or solar with any type of backup heat.

(i) The ceiling is insulated with material of a minimum thermal resistance of R-30 in all zones, except in zones 1, 14, 15, and 16 where a material with a minimum thermal resistance of R-38 is required.

(j) If air conditioning equipment is installed, such equipment has a minimum seasonal energy efficiency ratio of cooling capacity in British Thermal Units per hour to the total electrical input in watts on a 12 calendar month basis, as specified for the following zones:

(1) For buildings with concrete slab floors in zones 10 and 16, a minimum seasonal energy efficiency ratio of 8.5.

(2) For buildings with concrete slab floors in zone 4, a minimum seasonal energy efficiency ratio of 9.0.

(3) For buildings with concrete slab floors in zones 9, 11, 12, 14, 15, a minimum seasonal energy efficiency ratio of 9.5.

(4) For buildings with raised floors in zones 2, 10, and 16, a minimum seasonal energy efficiency ratio of 8.5.

(5) For buildings with raised floors in zone 14, a minimum

seasonal energy efficiency ratio of 8.8.

(6) For buildings with raised floors in zones 5 and 11, a minimum seasonal energy efficiency ratio of 9.0.

(7) For buildings with raised floors in zones 3, 4, 8, 9, 12, and 15, a minimum seasonal energy efficiency ratio of 9.5.

(k) An attic is installed under not less than 75 percent of the roof that is over any conditioned space.

(*l*) Heating equipment is installed with not less than the minimum seasonal energy efficiency ratios specified in this subdivision. As used in this subdivision "seasonal energy efficiency ratio" means (1) the ratio of heat from the combustion of gas which is transferred to the space being heated, to the heat value of the input gas plus all auxiliary electric energy used to operate the heater, or (2) the minimum coefficient of performance for heat pumps, which shall be determined as the ratio of the rate of net useful heat output to the total energy input. The following minimum efficiencies shall be applicable:

(1) Buildings with concrete slab floors in zone 1 shall be equipped with a gas heater with a minimum seasonal efficiency ratio of 72 percent or a heat pump with a minimum coefficient of performance of 2.5.

(2) Buildings with raised floors in zone 9 shall be equipped with a gas heater with a minimum seasonal efficiency ratio of 74 percent or a heat pump with a minimum coefficent of performance of 2.6.

(3) All buildings in zone 12 and 16, and buildings with raised floors in zones 3 and 5 shall be equipped with a gas heater with a minimum seasonal efficiency ratio of 79 percent or a heat pump with a minimum coefficient of performance of 2.8.

(m) Electrical outlet plate gaskets are installed to reduce outside air infiltration for zones 1, 14, and 15 for buildings with concrete slab floors and for zones 1, 3, and 15 for buildings with raised floors.

In lieu of installing all the components required by subdivisions (a) to (m), inclusive, a residential building may comply with those energy budget requirements for space heating and cooling, if the building permit applicant shows, by an approved calculation method, as defined in Section 25402.3, that the energy use for space heating and cooling in the residential building is no greater than the energy use calculated for the same building constructed according to the same floor plan but incorporating all the components required by subdivisions (a) to (m), inclusive. In calculating the performance of the proposed building, the actual orientation, design features, and conservation components proposed for the building shall be modeled. In calculating the performance of the same building and floor plan incorporating the components required by subdivisions (a) to (m), inclusive, all of those required components shall be modeled, and the calculations shall assume that an equal amount of the required glazing area faces in each of the four cardinal points.

Notwithstanding any other provision of law, compliance with this section and with the mandatory feature and device requirements of

Section 2-5352 of Chapter 2.53 of Title 24 of the California Administrative Code satisfies the requirements of subdivision (b) of Section 25402 and shall, as a matter of law, be the minimum or least stringent performance standard authorized by that section. However, no building standard adopted by the commission pursuant to that section and approved by the State Buildings Standards Commission before July 1, 1983, shall be invalidated by this section.

Not later than July 1, 1986, and after obtaining the recommendations of the State Building Standards Commission, the commission shall prepare and submit to both houses of the Legislature a report on the implementation of this section. The report shall consider the extent to which builders use the compliance methods authorized in this section and shall include the recommendations of each commission on whether these methods or this section should be retained, revised, or repealed. The report shall be prepared entirely by the staff of the commission, without the use of consultants that are not part of the commission's staff.

Any application for a building permit pending on the effective date of this section may be processed, at the request of the permit applicant, pursuant to the provisions of this section and of Section 25402.3.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 3. Section 25402.6 is added to the Public Resources Code, to read:

25402.6. The commission shall not require as any part of the standards adopted pursuant to Section 25402, outside combustion air for fireplaces that are not located near an exterior wall for residential buildings in climate zones 5, 6, 7, 8, 9, 10, 14, and 15, as those zones are defined in Section 25352 of Part 2 of Title 24 of the California Administrative Code, effective July 13, 1982.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that 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 the necessity are:

In order to avoid a substantial increase in the cost of housing and to avoid a decrease in the habitability and marketability of residential buildings in certain climate zones of the state, it is necessary that this act take effect immediately.

CHAPTER 506

An act to amend Section 42301 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 42301 of the Health and Safety Code is amended to read:

42301. A permit system established pursuant to Section 42300 shall:

(a) Insure that the article, machine, equipment, or contrivance for which the permit was issued shall not prevent or interfere with the attainment or maintenance of any applicable air quality standard.

(b) Prohibit the issuance of a permit unless the air pollution control officer is satisfied, on the basis of criteria adopted by the district board, that the article, machine, equipment, or contrivance will comply with all applicable orders, rules, and regulations of the district and of the state board and with all applicable provisions of this division.

(c) Provide for the reissuance or transfer of a permit to a new owner or operator of an article, machine, equipment, or contrivance. An application for transfer of ownership only, or change in operator only, of any article, machine, equipment, or contrivance which had a valid permit to operate within the two-year period immediately preceding the application is a temporary permit to operate. Issuance of the final permit to operate shall be conditional upon a determination by the district that the criteria specified in subdivision (b) are met, provided that the permit was not surrendered as a condition to receiving emission reduction credits pursuant to banking or permitting rules of the district. However, under no circumstances shall the criteria specify that a change of ownership or operator alone is a basis for requiring more stringent emission controls or operating conditions than would otherwise apply to the article, machine, equipment, or contrivance.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 507

An act to amend Section 20742 of, and to repeal Section 20743 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 July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 20742 of the Government Code is amended to read:

20742. Notwithstanding any other provision of this part, the state's contribution to the Public Employees' Retirement Fund during fiscal year 1983–84 is a sum equal to the percentages of compensation paid the following categories:

(a) 18.262 percent with respect to state miscellaneous members.

(b) 18.884 percent with respect to state industrial members.

(c) 20.615 percent with respect to state safety members.

(d) 24.306 percent with respect to state patrol members.

SEC. 2. Section 20743 of the Government Code 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 the necessity are:

In order to implement the contribution rates to the retirement fund for the 1983–84 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 508

An act to amend Section 221 of the Food and Agricultural Code, relating to the Department of Food and Agriculture Fund, and making an appropriation therefor.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 221 of the Food and Agricultural Code is amended to read:

221. The "Department of Food and Agriculture Fund," which is a special fund, is continued in existence. Any money which is directed by law to be paid into the fund shall be paid into it and, unless otherwise specifically provided, shall be expended solely for

the enforcement of the law under which the money was derived. The expenditure from the fund for the enforcement of any law shall not, unless otherwise specifically provided, exceed the amount of money which is credited to the fund pursuant to the law.

Notwithstanding Section 13340 of the Government Code, all money deposited in the fund under the provisions enumerated below is hereby continuously appropriated to the department without regard to fiscal years for expenditure in carrying out the purposes for which the money was deposited and for making the refunds authorized by Section 302.

All money deposited in the fund under the provisions enumerated below is hereby exempted from the provisions of Sections 13320 to 13324, inclusive, of the Government Code.

(a) Article 7 (commencing with Section 5821) of Chapter 8 of Part 1 of Division 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, and Chapter 5 (commencing with Section 53301) of Division 18.

(b) Article 5 (commencing with Section 6001) of Chapter 9 of Part 1 of Division 4.

(c) Chapter 4 (commencing with Section 14200), Chapter 5 (commencing with Section 14501), and Chapter 6 (commencing with Section 14901) of Division 7.

(d) Part 1 (commencing with Section 16301) and Part 2 (commencing with Section 17401) of Division 9.

(e) Division 10 (commencing with Section 20001).

(f) Division 11 (commencing with Section 23001).

(g) Part 4 (commencing with Section 27501) of Division 12.

(h) Division 16 (commencing with Section 40501).

(i) Chapter 9 (commencing with Section 44971) of Division 17.

(j) Chapter 1 (commencing with Section 52001) of Division 18.

(k) Chapter 2 (commencing with Section 52251) of Division 18.

(*l*) Chapter 3 (commencing with Section 52651) of Division 18.

(m) Chapter 6 (commencing with Section 55401), Chapter 7 (commencing with Section 56101), and Chapter 7.5 (commencing with Section 56701) of Division 20.

(n) Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700) of Part 3 of Division 21.

(o) Chapter 5.5 (commencing with Section 12531) of Division 5 of the Business and Professions Code.

(p) Chapter 7 (commencing with Section 12700), Chapter 7.3 (commencing with Section 12740), and Chapter 7.7 (commencing with Section 12770) of Division 5 of the Business and Professions Code.

(q) Chapter 14 (commencing with Section 13400), Chapter 15 (commencing with Section 13700), Chapter 16 (commencing with Section 13800), and Chapter 17 (commencing with Section 13900) of Division 5 of the Business and Professions Code.

CHAPTER 509

An act to repeal Section 9354.4 of the Government Code, relating to retirement of legislators.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 9354.4 of the Government Code is repealed.

CHAPTER 510

An act to repeal Sections 6272, 6273, 6274, 6862, 6863, 6864, and 6865 of the Harbors and Navigation Code, and to add Section 20128.5 to, and to add Article 4.7 (commencing with Section 20189) to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 6272 of the Harbors and Navigation Code is repealed.

SEC. 2. Section 6273 of the Harbors and Navigation Code is repealed.

SEC. 3. Section 6274 of the Harbors and Navigation Code is repealed.

SEC. 4. Section 6862 of the Harbors and Navigation Code is repealed.

SEC. 5. Section 6863 of the Harbor and Navigation Code is repealed.

SEC. 6. Section 6864 of the Harbors and Navigation Code is repealed.

SEC. 7. Section 6865 of the Harbors and Navigation Code is repealed.

SEC. 8. Section 20128.5 is added to the Public Contract Code, to read:

20128.5. Notwithstanding any other provisions of this article, the board of supervisors may award annual contracts which do not exceed one million dollars ($1,000,000) for repair, remodeling, or other repetitive work to be done according to unit prices. No annual contracts may be awarded for any new construction. The contracts shall be awarded to the lowest responsible bidder and shall be based on plans and specifications for typical work. No project shall be

performed under such a contract except by order of the board of supervisors, or an officer acting pursuant to Section 20145.

For purposes of this section, "unit price" means the amount paid for a single unit of an item of work, and "typical work" means a work description applicable universally or applicable to a large number of individual projects, as distinguished from work specifically described with respect to an individual project.

For purposes of this section, "repair, remodeling, or other repetitive work to be done according to unit prices" shall not include design or contract drawings.

SEC. 9. Article 4.7 (commencing with Section 20189) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 4.7

20189. The provisions of this article shall apply to contracts awarded by port districts organized under Part 4 (commencing with Section 6200) and river port districts organized under Part 6 (commencing with Section 6800) of Division 8 of the Harbors and Navigation Code.

20189.1. Contracts for the doing of new construction work, the cost of which exceeds ten thousand dollars ($10,000), or the purchase of all supplies, equipment, and materials, the cost of which exceeds twenty-five thousand dollars ($25,000), or projects involving maintenance of buildings and improvements, the cost of which exceeds ten thousand dollars ($10,000), shall be let by the board upon competitive bidding.

Notice of the proposed letting of contract shall be given by publication pursuant to Section 6061 of the Government Code in the county in which the district is located, at least five days before the time fixed for opening bids. Bidding shall be by sealed proposals filed with the district, upon forms furnished by it, and under rules and regulations that the board may prescribe. All bids shall be publicly opened and declared under procedures established by the board, and the award of the contract shall be made in open session of the board to the lowest responsible bidder.

20189.2. In case of any great public calamity, including, but not limited to, an extraordinary fire, flood, storm, shoaling, epidemic, or other disaster, the board may, by resolution passed by a four-fifths vote of all of its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in the emergency without observance of the provisions requiring contracts, bids, or notice.

20189.3. The district may itself, without letting contracts therefor, do work and make improvements. The work shall be done under the direction of its officers or employees.

20189.4. The board may delegate to its officers the execution of

contracts in which the amount involved is less than ten thousand dollars ($10,000).

CHAPTER 511

An act to add Section 7527 to the Government Code, relating to letters and correspondence of state agencies.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 7527 is added to the Government Code, to read:

7527. Every letter to any person from a state agency shall be signed by, or contain the name of, the writer, authorized representative, or contact person familiar with the subject area. In the case of computer-generated letters, a telephone number and an address where a person familiar with the subject area may be contacted shall be given.

CHAPTER 512

An act to add Section 24501.5 of the Public Utilities Code, relating to transit districts.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 24501.5 is added to the Public Utilities Code, to read:

24501.5. Notwithstanding any other provision of law, except Section 24826, elections for the Alameda-Contra Costa Transit District shall be conducted in accordance with the provisions of the Uniform District Election Law (Part 3 (commencing with Section 23500) of the Elections Code). Any costs incurred by county officials shall be paid by the transit district.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 513

An act to amend Sections 48801 and 76001 of the Education Code, relating to students.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 48801 of the Education Code is amended to read:

48801. Any student authorized to attend a community college as a special part-time student pursuant to Sections 48800 and 76001 shall, nevertheless, be required to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law.

The student shall also be required to attend school for the minimum schoolday, except as provided for in Section 46145 or 46147. However, the governing board of the school district may permit the student to attend school for such a lesser period of time than the minimum schoolday as the board shall find to be in the student's best interests.

SEC. 2. Section 76001 of the Education Code is amended to read:

76001. The president of any community college may admit to the community college as a special part-time student any student who is eligible to attend community college pursuant to Section 48800.

The attendance of a student at community college as a special part-time student pursuant to this section is authorized attendance, for which the community college shall be credited or reimbursed pursuant to Section 48802. Credit for courses completed shall be at the level determined to be appropriate by the school district and community college district governing boards.

For purposes of this section, a special part-time student may enroll in up to, and including, 12 units per semester, or the equivalent thereof, at the community college.

CHAPTER 514

An act to add Section 647e to the Penal Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 647e is added to the Penal Code, to read:

647e. (a) A city, county, or city and county may by local ordinance provide that no person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, shall enter, be, or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, or on any public sidewalk immediately adjacent to the licensed and posted premises. Any person violating any provision of such an ordinance shall be guilty of an infraction.

(b) As used in subdivision (a), "posted premises" means those premises which are subject to licensure under any retail package off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises and any public sidewalk immediately adjacent to the licensed premises on which clearly visible notices indicate to the patrons of the licensee and parking lot and to persons on the public sidewalk, that the provisions of subdivision (a) are applicable. Any local ordinance adopted pursuant to this section shall require posting of the premises.

(c) The provisions of this section shall not apply to a private residential parking lot which is immediately adjacent to the posted premises.

Nothing in this section shall affect the power of a county or a city, or city and county, to regulate the possession of an opened alcoholic beverage in any public place or in a place open to the public.

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 that a city, county, or city and county, at the earliest opportunity, may alleviate the attendant problems of persons who congregate with opened alcoholic beverages on posted premises licensed with a retail package off-sale alcoholic beverage license, such as the harassment of customers or the perpetration of unlawful activity, it is necessary that this bill take immediate effect.

CHAPTER 515

An act to add Article 3.5 (commencing with Section 28852) to Chapter 14 of Division 22 of the Health and Safety Code, relating to grocery stores.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Article 3.5 (commencing with Section 28852) is added to Chapter 14 of Division 22 of the Health and Safety Code, to read:

Article 3.5. Grocery Stores

28852. "Grocery store," as used in this article, means any room, building, or place, or portion thereof, maintained, used, or operated for, or in conjunction with, the retail sale of staple foodstuffs, meats, and other foods, and household supplies, by a retail grocer.

28853. Clean toilet facilities, in good repair, shall be provided for patrons, guests, or invitees on property used in connection with, or in, each grocery store with more than 20,000 square feet of floor space.

For the purposes of this section, the gas pump area of a service station which is maintained in conjunction with a grocery store shall not be considered as property used in connection with the grocery store or be considered in determining the square footage of floorspace of the grocery store.

There shall be at least one separate toilet facility for men and one separate toilet facility for women. Toilet rooms shall be separated by well-fitted, self-closing doors that prevent passage of flies, dust, or odors.

Handwashing facilities, in good repair, shall be provided for patrons, guests, or invitees within or adjacent to toilet rooms and shall be equipped with hot and cold running water. Handwashing detergent or soap and sanitary towels or hot-air blowers shall be provided at handwashing facilities in permanently installed dispensing devices. Notwithstanding any other provision of law, other than Section 28854, violation of this section shall be an infraction.

28854. The requirements of Section 28853 for restroom facilities which are accessible to patrons, guests, or invitees on the property may be satisfied by permitting access by those persons to the toilet and handwashing facilities which are required by other provisions of this chapter.

However, if the requirements of Section 28853 are satisfied by permitting access by those persons to the toilet and handwashing facilities which are required by other provisions of this chapter, a violation of these provisions shall be a misdemeanor punishable pursuant to Section 28862.

28855. The provisions of this article shall apply only to grocery stores as to which construction is commenced on or after July 1, 1984.

SEC. 2. Section 1 of this act shall become operative July 1, 1984.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 516

An act to amend Sections 5732, 5733, 5734, 5740, and 5763 of, and to add Section 5778 to, the Business and Professions Code, relating to auctions, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 5732 of the Business and Professions Code is amended to read:

5732. On and after July 1, 1983, no person shall operate an auction house or auction company unless that person holds an unexpired and unrevoked license issued pursuant to this chapter.

SEC. 1.5. Section 5733 of the Business and Professions Code, as amended by Section 1 of Chapter 70 of the Statutes of 1983, is amended to read:

5733. (a) Except as provided in subdivision (b), no individual may act as an auctioneer and no person may operate an auction house or an auction company without obtaining and having in full force and effect a valid license issued by the commission in accordance with this chapter.

(b) The requirements of this chapter shall not apply to:

(1) An auction of goods conducted by an individual who personally owns such goods and who did not acquire such goods for resale.

(2) An auction conducted by or under the direction of any public authority.

(3) An auction conducted pursuant to any judicial order or to the settlement of a decedent's estate.

(4) A sale conducted by or on behalf of any person, political candidate or party, church, charitable corporation, or association, if the individual conducting the sale receives no compensation and does not, by advertising or otherwise, hold himself or herself out as being available to engage in the sale of goods at auction.

(5) A sale of real estate.

(6) Automobile auctions regulated by the Department of Motor Vehicles. However a person acting as an auctioneer at any such auto auction shall hold a license as required by this chapter.

(7) An auction of livestock in any place designated by the Secretary of the United States Department of Agriculture as a stockyard pursuant to Section 202 of Chapter 9 of Title 7 of the United States Code. The exemption provided by this paragraph shall extend to persons acting as auctioneers at any such livestock auction.

(8) An auction of goods conducted by mini-storage warehouses.

This section shall be operative until July 1, 1985, and as of that date is repealed.

SEC. 1.7. Section 5733 of the Business and Professions Code, as added by Section 2 of Chapter 70 of the Statutes of 1983, is amended to read:

5733. (a) Except as provided in subdivision (b), no individual may act as an auctioneer and no person may operate an auction house or an auction company without obtaining and having in full force and effect a valid license issued by the commission in accordance with this chapter.

(b) The requirements of this chapter shall not apply to:

(1) An auction of goods conducted by an individual who personally owns such goods and who did not acquire such goods for resale.

(2) An auction conducted by or under the direction of any public authority.

(3) An auction conducted pursuant to any judicial order or to the settlement of a decedent's estate.

(4) A sale conducted by or on behalf of any person, political candidate or party, church, charitable corporation, or association, if the individual conducting the sale receives no compensation and does not, by advertising or otherwise, hold himself or herself out as being available to engage in the sale of goods at auction.

(5) A sale of real estate.

(6) Automobile auctions regulated by the Department of Motor Vehicles. However a person acting as an auctioneer at any such auto auction shall hold a license as required by this chapter.

(7) An auction of goods conducted by mini-storage warehouses.

This section shall become operative on July 1, 1985.

SEC. 2. Section 5734 of the Business and Professions Code is amended to read:

5734. (a) Every individual, before acting as an auctioneer, shall obtain a license from the commission.

(b) An applicant shall be at least 18 years of age.

(c) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the board. When filing an initial application for an auctioneer license, each individual shall do all of the following:

(1) Pay a nonrefundable examination fee of thirty-five dollars ($35) and a nonrefundable application fee of thirty-five dollars ($35).

(2) Provide all the following:

(A) A surety bond in the amount and form as prescribed in Section 5760.

(B) The statements of two individuals, not related to the applicant or to each other, who are residents of the State of California, recommending that the applicant be licensed as an auctioneer and certifying to the applicant's honesty and truthfulness.

(C) Proof that the applicant, or his or her employer, holds a valid, unrevoked sellers permit issued by the State Board of Equalization, if applicable.

(d) An applicant shall be fingerprinted on a form approved by the Department of Justice. A fee, not to exceed fifteen dollars ($15), may be charged by the Department of Justice for fingerprinting.

(e) When filing an application for a renewal of an auctioneer license each individual shall do all the following:

(1) File with the executive officer a completed application on the form prescribed by the board.

(2) Pay the license fee prescribed by Section 5737.

(3) Satisfy the executive officer that a surety bond in the amount and form prescribed in Section 5760 is in full force and effect.

(f) Upon the receipt of a completed application for an initial or a renewal license, the executive officer shall examine the application and verify the information contained therein.

(g) An applicant who is seeking an initial license shall pass an examination prepared by the board and administered by the executive officer. The executive officer shall hold examinations as the board may prescribe. The examination for an auctioneer's license shall include questions on the applicant's ability to read and write, his or her knowledge of the value of merchandise, equipment, and the various goods commonly sold at auction, his or her ability to call bids, his or her knowledge of sale preparation and proper sale advertising and sale summary, his or her knowledge of mathematics and accounting principles, and his or her knowledge of the provisions of this chapter and the commission's regulations.

(h) Any individual who fails to pass two successive examinations administered by the executive officer is not eligible to take another examination until the expiration of one year from the date of his or her most recent failure.

(i) The board shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(j) Any individual who has been actively engaged in the business of auctioneering for at least three of the last five years shall be issued a license without examination upon approval by the board of governors, provided that he or she files an application with the commission on the form prescribed by the board of governors on or before March 31, 1984, and has met the other requirements of this chapter, and submits evidence of having held an auctioneer license issued to him or her by any city or county in this state for at least

three of the last five years.

Any individual who has not held an auctioneer license issued to him or her by any city or county in this state for at least three of the last five years, may submit at least five pieces of evidence on or before March 31, 1984, to substantiate that he or she has been actively engaged in the business of auctioneering for at least three of the last five years. Such evidence may take the form of business licenses, payroll stubs, old bills of sale, advertisements from newspapers or periodicals, sales agreements, certified letters from reputable persons for whom sales have been conducted or the equivalent thereof.

(k) Auctioneer licenses shall be issued for a term of two years. A license issued under this chapter expires at 12 midnight on that day of the second year following the year in which the license is issued, which constitutes a full two-year term for the license, unless renewed before that date. Renewal applications shall be filed with the executive officer before the time at which the certificate would otherwise expire on a form prescribed by the board and shall be accompanied by the renewal fee to be prescribed by the board not to exceed two hundred dollars ($200).

If the license has expired, it may be reinstated not more than one year after the date it expired upon the payment of the renewal fee plus the sum of twenty-five dollars ($25). If the license has expired for a period of more than one year, the person shall file an application and take the required examination.

The holder of an expired license shall cease to display the original wall certificate at his or her place of business and shall return the wall certificate to the executive officer upon notification by the executive officer of the expiration of his or her license.

(*l*) The board may waive the requirement that a nonresident applicant pass an examination and that he or she submit written statements by two individuals, if the nonresident applicant complies with all of the following:

(1) Is licensed to act as an auctioneer in the state of his or her domicile.

(2) Submits with his or her application a duly certified letter of certification issued by the licensing board of his or her domiciliary state.

(3) Includes with his or her application an irrevocable consent that actions may be commenced against him or her. The consent shall stipulate that service of process or pleadings on the board shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subdivision is served upon the board, it shall be by duplicate copies. One of the duplicate copies shall be filed in the Sacramento office of the commission and one shall be immediately forwarded by the executive officer by registered or certified mail to the applicant against whom the process or pleadings are directed.

(4) Files a bond in the amount of ten thousand dollars ($10,000) pursuant to Section 5760.

(5) Pays the applicable fees required by this chapter.

(m) The board may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one year, as the board deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if he or she had obtained a license subject to the restrictions contained in Section 5723.

SEC. 2.5. Section 5740 of the Business and Professions Code is amended to read:

5740. (a) The board may charge a fee not to exceed ten dollars ($10) as the cost of providing duplicate licenses to replace lost or destroyed licenses.

(b) The board shall charge a fee not to exceed ten dollars ($10) as the cost of certified copies of licenses, which shall include certified copies of a type and size which can be easily carried on the person of the licensee (pocket card). Each applicant shall submit two passport quality photographs at the time of application.

SEC. 3. Section 5763 of the Business and Professions Code is amended to read:

5763. (a) The State of California shall be the obligee under the bond.

(b) The bond shall comply with all the following:

(1) Be executed by the person seeking the license as principal and by a corporate surety, licensed to do business in this state, as surety.

(2) Be in such form and shall contain such terms and conditions as the board prescribes.

(3) Be conditioned upon the faithful performance of all obligations of a licensee under this chapter and the regulations, including the obligation to account for and pay over moneys and proceeds to persons who are entitled to them.

(4) Be effective from the date of filing with the executive officer and shall not be affected by the expiration of the license and shall continue in full force and effect until canceled, provided that the total and aggregate liability of the surety on a bond shall be limited to the amount specified in the bond and the continuous nature of the bond shall in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive license period during which the bond is in force.

(c) (1) A licensee may not cancel a bond without the prior written approval of the board and its approval of a substitute bond so as to provide continuous bonding of the licensee's activities.

(2) The surety on a bond may cancel a bond filed under this chapter only after the expiration of 30 days from the date the surety mails a notice of intent to cancel, by registered or certified mail, return receipt requested, to the commission and to the principal on the bond.

(3) Not later than the date upon which a bond cancellation becomes effective, the licensee shall give written notice to the commission that a new bond has been obtained in order to provide continuous bond coverage of the licensee's activities.

SEC. 3.5. Section 5778 is added to the Business and Professions Code, to read:

5778. Whenever any licensed auctioneer changes his or her address of record he or she shall notify the Executive Officer of the California Auctioneers Commission within 30 days.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Board of Governors of the California Auctioneer Commission may implement the provisions of the Auctioneer and Auction Licensing Act by the July 1, 1983, operative date, it is necessary that this act go into immediate effect.

CHAPTER 517

An act to amend Sections 51, 52, 52.5, 160.5, 179, 185, 270.02, 431, 481.3 and 640 of, and to amend and repeal Section 467 of, the Military and Veterans Code, and to amend Section 12030 of the Penal Code, relating to the California National Guard, and making an appropriation therefor.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 51 of the Military and Veterans Code is amended to read:

51. The Military Department includes the office of the Adjutant General, the California National Guard, the State Military Reserve, the California Cadet Corps, and the Naval Militia.

SEC. 2. Section 52 of the Military and Veterans Code is amended to read:

52. The Adjutant General succeeds to, and is vested with, the duties, power, purposes, responsibilities, and jurisdiction of the Division of Military Affairs and of the officers and employees of that division. The Adjutant General shall, in addition to all other duties, be the head of the Military Department and shall be responsible for its affairs, functions, duties, funds, and property.

SEC. 3. Section 52.5 of the Military and Veterans Code is amended to read:

52.5. The Adjutant General may enter into agreements to provide for joint and several liability and indemnity to private

agencies and persons for injuries to third parties arising out of a negligent act or omission by a member of the California National Guard while involved in on-the-job training.

SEC. 4. Section 160.5 of the Military and Veterans Code is amended to read:

160.5. Any statute of this state referring to the Commanding General of the State Military Forces is deemed to refer to the Adjutant General.

SEC. 5. Section 179 of the Military and Veterans Code is amended to read:

179. (a) The Adjutant General may establish a California National Guard military museum and resource center as a repository for military artifacts, memorabilia, equipment, documents, and other items relating to the history of the California National Guard. An armory or other facility or facilities under the jurisdiction of the National Guard may be used for this purpose.

(b) The Adjutant General may solicit, receive, and administer donations of funds or property for the support and improvement of the museum. Any grants or donations received may be expended or used for museum purposes. Property determined by the Adjutant General to be excess to the needs of the museum may be sold, donated, exchanged, or otherwise disposed of, at his discretion, in a manner appropriate to the historical and intrinsic value of the property.

(c) The Adjutant General may solicit and receive firearms and other weaponry confiscated by or otherwise in the possession of law enforcement officers as donations to the museum if he deems them to be of historical or military interest.

(d) The Adjutant General may conduct a study of the future needs of the National Guard to preserve, display, and interpret artifacts, documents, photographs, films, literature, and other items relating to the history of the military in California.

SEC. 6. Section 185 of the Military and Veterans Code is amended to read:

185. (a) The Legislature finds and declares that it is the responsibility of the State of California to protect and preserve the right of its citizens to a safe and peaceful existence. To accomplish this goal and to minimize the destructive impact of disasters and other massive emergencies, the actions of numerous public agencies must be coordinated to effectively manage all four phases of emergency activity: preparedness, mitigation, response, and recovery. In order to ensure that the state's response to disasters or massive emergencies is effective, specialized training is necessary.

(b) There is hereby established in the office of the Adjutant General the California Specialized Training Institute to assist the Military Department in providing training to state agencies, cities, and counties in their planning and preparation for disasters. An armory, camp, or other facility under the jurisdiction of the Adjutant General may be used for this purpose.

(c) The Adjutant General may solicit, receive, and administer funds or property from federal, state, or other public agency sources for the support and operation of the institute.

(d) The Adjutant General may solicit and receive firearms, other weaponry, explosive materials, chemical agents, and other items confiscated by or otherwise in the possession of law enforcement officers as donations to the institute if he deems them to be appropriate for the institute's training purposes.

(e) Any moneys received by the Adjutant General from charges or fees imposed in connection with the operation of the institute shall be deposited in the General Fund.

SEC. 7. Section 270.02 of the Military and Veterans Code is amended to read:

270.02. The provisions of this article are applicable, and the benefits conferred thereby are available, to the commissioned officers, warrant officers, and enlisted members of the California National Guard. In the event that there are insufficient funds at any time to meet the requirements of all applicants under this article, the following order of priority shall apply:

(a) First priority shall be given to commissioned officers of the grade of captain (0-3) and below, warrant officers, and enlisted members.

(b) Second priority shall be given to commissioned officers of the grade of major (0-4) and above.

SEC. 8. Section 431 of the Military and Veterans Code is amended to read:

431. (a) The Adjutant General may, either directly or through armory boards, or through subordinate commanders, lease or otherwise authorize the use of, by any person for any lawful purpose, manage, supervise all activities in, perform all necessary military duties with respect to and control all armories that are built or acquired by the state, that come into possession or control of the state, or that are erected, purchased, leased, or provided or contributed to, in whole or in part, by any city, county, other political subdivision of the state, public corporation, or district or by anyone for armory purposes.

(b) The Adjutant General may contract with the United States for the operation of any armory for purposes of training of federal military personnel, with provision that all state costs related to that operation shall be reimbursed by the United States.

(c) All revenues or income from any armory shall be paid to the Adjutant General who shall account for the revenues or income to the Controller at the close of each month in the form that the Controller prescribes and shall deposit the revenues and income into the Treasury to the credit of the General Fund. The revenues and income are hereby continuously appropriated to the Adjutant General for allocation for the maintenance, repairs, improvements, and operating expenses of the armory from which the revenues and income were derived. Post, welfare, or similar unit or organizational

funds may be established and deposited pursuant to rules and regulations adopted by the Adjutant General.

(d) The Adjutant General, on May 1st of each year, shall submit to the Department of General Services and obtain approval of a schedule of rental, license, or lease fees for each state-owned or leased armory by location. This schedule, when approved by the Department of General Services, shall be used by the Adjutant General during the next succeeding fiscal year to determine the minimum rental, license, or lease fees to be charged the renter, licensee, or lessor.

SEC. 9. Section 467 of the Military and Veterans Code, as amended by Section 1 of Chapter 563 of the Statutes of 1982, is amended to read:

467. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his hand directed to any sheriff, marshal, or constable of the county, commanding him to levy and collect the fines and penalties, together with the costs, upon and out of the property of the person against whom the fine or penalty is imposed. The warrant shall be executed and renewed in the same manner as executions from the justices' courts.

All fines collected under this section or imposed and collected under Section 450.1 shall be paid by the officer collecting them to the commanding officer of the organization of which the person fined is or was a member and shall be deposited by the commanding officer into the AWOL Abatement Program Fund, which is hereby created in the State Treasury. All money in the AWOL Abatement Program Fund is hereby appropriated to the Military Department for the 1983–84 and 1984–85 fiscal years for programs to reduce the rate of absence without leave among members of the California National Guard.

SEC. 10. Section 467 of the Military and Veterans Code, as added by Section 2 of Chapter 563 of the Statutes of 1982, is repealed.

SEC. 11. Section 481.3 of the Military and Veterans Code is amended to read:

481.3. All revenue bonds shall bear the facsimile signature of the Adjutant General and the Deputy Adjutant General and shall be authenticated by the trustee. The Seal of the California National Guard shall be impressed, mechanically reproduced, or imprinted by facsimile upon each revenue bond. The interest coupons attached to any revenue bond shall bear a facsimile of the signature of the Adjutant General.

In case any official whose signature or countersignature appears on the revenue bonds or coupons ceases to be that official before the revenue bonds so signed or countersigned have been actually executed or delivered, the signature or countersignature is

nevertheless valid and sufficient for all purposes as if the person had remained in office until the delivery of the revenue bonds and the revenue bonds and coupons shall be issued and shall be as binding upon the department as though the person who signed the revenue bonds or coupons had been that official on the date borne by the revenue bonds or coupons and on the date of delivery. The revenue bonds may be signed and sealed on behalf of the department by that person as if, at the actual date of execution of the revenue bonds, the person was the Adjutant General or the Deputy Adjutant General, as the case may be, although, on the date borne by the revenue bonds, the person was not that official.

SEC. 12. Section 640 of the Military and Veterans Code is amended to read:

640. The following decorations are authorized for members of the National Guard, State Military Reserve, and Naval Militia:

(a) Medal of Valor
(b) Military Cross
(c) Order of California
(d) Medal of Merit
(e) Commendation Ribbon
(f) Service Medal
(g) Good Conduct Medal

The Order of California, Medal of Merit, and Commendation Ribbon are also authorized for award to civilians and members of other military services who bring honor to the State of California by their actions.

The Adjutant General may provide and procure appropriate emblematic devices for each decoration, together with suitable ribbons and insignia to be worn therewith or in lieu thereof.

SEC. 13. Section 12030 of the Penal Code is amended to read:

12030. The officer having custody of any firearms which may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, including, but not limited to, the California National Guard military museum and resource center, may, upon the authority of the legislative body of the city, city and county, or county by which he or she is employed and the approval of the Adjutant General, deliver the firearms to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government in lieu of destruction as required by this chapter. The officer delivering the firearms shall take a receipt for them containing a complete description thereof and shall keep the receipt on file in his or her office as a public record.

Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency, or upon approval of a court, may release

them to any other law enforcement agency for use in carrying out the official duties of that agency, or may turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office, or district attorney's office any weapons which may be useful in carrying out the official duties of their respective agencies.

Any firearm, or part of any firearm, which, rather than being destroyed, is used for official purposes pursuant to this section shall be destroyed by the agency using the weapon when it is no longer needed by the agency for use in carrying out its official duties. In the case of firearms or weaponry donated to the California National Guard military museum and resource center, they may be disposed of pursuant to Section 179 of the Military and Veterans Code.

Any law enforcement agency that retains custody of any firearm pursuant to this section or that destroys a firearm pursuant to Section 12028 shall notify the Department of Justice of the retention or destruction. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number.

CHAPTER 518

An act to amend and supplement the Budget Act of 1982 by amending Section 3790-301-721 thereof, relating to parks and recreation, and making an appropriation therefor.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Item 3790-301-721 of the Budget Act of 1982 (Chapter 326, Statutes 1982) is amended to read:

PARKLANDS FUND OF 1980 PROGRAM

3790-301-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980		70,687,000
Schedule:		
(a) American River Bikeway Project —working drawings and construction—Phase II	1,330,000	
(b) Angel Island SP—working drawings for restoration	155,000	
(d) Bidwell River Park—acquisition	700,000	
(e) China Camp SP—working draw-		

ings and construct village restoration		378,000
(f) Colonel Allensworth SHP—working drawings and construct restoration and site work		400,000
(g) El Presidio de Santa Barbara—acquisition		1,760,000
(i) Fort Humboldt SHP—restoration		554,000
(j) Humboldt Redwoods SP—bank protection study		350,000
(k) Huntington SB—working drawings and construct day use, parking, and rehabilitation—Phase I		6,500,000
(*l*) Indio Hills Palms—acquisition		705,000
(m) In-holding purchases		500,000
(o) Multicultural Center—Exposition Park—partial working drawings and construct multicultural center		4,205,000
(p) Notleys Landing—acquisition		2,400,000
(q) Old Sacramento SHP—working drawings and partial construction of 1849 scene		1,462,000
(r) Old Town San Diego SHP—working drawings and construct U.S. House, Light Freeman, and Wrightington Adobes		1,017,000
(s) San Simeon SB—working drawings and construct day use, campground, and sewer hookup		1,595,000
(t) San Pedro Beach—acquisition		1,600,000
(u) Schooner Gulch Project—acquisition		1,300,000
(v) Santa Suzanna Mountains Project—acquisition		2,350,000
(w) Minor Projects		2,066,000
(1) Handicapped retrofit	200,000	
(2) Enroute camping	300,000	
(3) Environmental campsites	618,000	
(4) Volunteer projects	648,000	
(5) Coastal access projects	300,000	
(x) Design and construction planning		3,115,000
(y) Prebudget and appraisals		200,000
(aa) Angel Island SP—working drawings and construct sewage treat-		

ment facilities	210,000
(bb) Baldwin Hills Project—preliminary plans, working drawings and construct Phase I development	4,600,000
(cc) Chino Hills—acquisition	500,000
(dd) Columbia SHP—continuing restoration of Fallon Hotel and Theatre	1,001,000
(ee) East Bay Shoreline—acquisition and development	4,000,000
(ff) Fort Ross SHP—continuing restoration of Kuskov House	125,000
(gg) Monterey SHP—continuing restoration of Cooper-Molera Adobe	1,022,000
(hh) Old Town San Diego SHP—working drawings and partial construction of Rose-Robinson Building, Schoolroom, Alvarado Family Property, Alvarado Lucia House, and parking	738,000
(ii) San Onofre State Beach—working drawings and construct parcel 1 camping	4,000,000
(jj) Reimbursements	−3,000,000
(kk) Preliminary planning	200,000
(*ll*) Statewide Interpretive, Natural, and Archaeological Management	100,000
(mm) McGrath SB—working drawings and construct Harbor Boulevard Bridge	500,000
(nn) Chino Hills Project—acquisition	3,000,000
(oo) New Brighton SB—Porter Sesnon acquisition	4,000,000
(pp) Hostel facilities—Kent Canyon Hostel, Mt. Tamalpais SP	243,000
(qq) Citrus Heritage Park—Mockingbird Canyon Project—acquisition and planning	3,000,000
(rr) Pismo SB—Grand Avenue Entrance—rehabilitation, working drawings and construction	580,000
(ss) San Joaquin Valley Agricultural Museum—development	3,000,000
(tt) Big Sur Project—acquisition	2,000,000
(uu) Fort Ross SHP—construct visitor center	800,000
(vv) Angel Island—continuing restoration	66,000
(ww) Opportunity purchases	360,000

(zz) South Monterey Bay Dunes—acquisition 1,000,000

(aaa) Hearst San Simeon SHM—construct visitor center 4,000,000

Provisions:

1. None of the funds appropriated for acquisition of parklands in 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 and shall be available for postaudit on a selective basis by the Attorney General.
2. No state funds appropriated in category (*l*) of this item for the acquisition of Indio Hills Palms shall be encumbered unless and until an agreement is entered into with the County of Riverside for the county to operate and maintain the project at no additional cost to the state.
3. No state funds appropriated in category (bb) of this item for Phase I development of Baldwin Hills shall be encumbered unless and until the following occur: (a) the Department of Finance has reviewed, and the State Public Works Board has approved, a long-term agreement between the Department of Parks and Recreation and the County of Los Angeles for the county to operate and maintain the project at no additional cost to the state; and (b) the County of Los Angeles has granted to the state the property necessary to complete the state development project.
4. An amount not to exceed $200,000 of the funds appropriated in category (m) of this item for in-holding purchases shall be used for acquisition of lands within the boundaries of Big Basin Redwoods State Park, which boundaries have been approved by the State Park and Recreation Commission.
5. None of the funds appropriated in category (ii) of this item shall be expended for the construction of parcel 1 camping at San Onofre State Beach unless and until $3,000,000 in reimbursements are received by the Department of Parks and Recreation from Southern California Edison and San Diego Gas and Electric, as identi-

fied in category (jj) of this item.

6. None of the funds appropriated in category (qq) of this item may be encumbered unless and until all the following requirements have been satisfied:

(a) The project receives the favorable recommendation of the State Park and Recreation Commission pursuant to subdivision (c) of Section 5096.162 of the Public Resources Code.

(b) The County of Riverside encumbers at least $197,646 in funds available to it for the project.

(c) The City of Riverside encumbers at least $429,-137 in funds available to it for the project and transfers in fee or leases to the state, at no cost to the state, Mockingbird Canyon Reservoir and at least 128 acres of land owned by the city beneath and surrounding the reservoir.

In addition, none of the funds appropriated in category (qq), or available from any other source, may be encumbered for the purchase of any land northeast of Irving Street in the City of Riverside.

8. Funds expended from the appropriation made by category (pp) shall be reimbursed to the Parklands Fund of 1980 from funds currently available to the department and contained in Section 5(c)(2) of Chapter 1440, Statutes of 1976, upon such time as the current freeze on the State Parks and Recreation Fund is lifted, or from funds accumulated by the state from payments made to the State Treasury by condominium sellers or buyers under Section 2(b)(3) of Chapter 1066, Statutes of 1981, but the reimbursements and expenditures from these sources in combination shall not exceed the total appropriation contained in category (pp).

9. The state participation in the construction of the McGrath SB-Harbor Boulevard Bridge as proposed in category (mm) of this item shall not exceed the amount appropriated by this item. Any amount necessary for the construction of this bridge in excess of the funds appropriated in category (mm) shall be made available from the County of Ventura or other nonstate sources.

10. The state participation in the construction of the Hearst San Simeon SHM visitor center as proposed in category (aaa) of this item shall not exceed the amount appropriated in category

(aaa). Any amount necessary for the construction of this facility in excess of the funds appropriated in category (aaa) shall be made available from proposed concessionaires at this facility or other nonstate sources.

11. (a) Funds appropriated in category (tt) of this item for acquisition at the Big Sur Project shall be for the following parcels: Little Sur River (Hill Road Project); parcels 243-231-13, 243-231-15, 243-231-16, and 243-231-18 at Garapata State Beach; and parcel 601-818-00 at Julia Pfeiffer Burns State Park.

(b) In addition, the department shall enter into an interagency agreement with the Department of General Services for reimbursement of expenses related to the acquisition of those lands by the Department of General Services, and for the deposit of any funds recouped by the Department of General Services in connection with the acquisition, in excess of administrative costs, to the Parklands Fund of 1980.

(c) No funds appropriated in category (tt) shall be encumbered if AB 2929 of the 1981–82 Regular Session is enacted into law.

12. The Legislature requests that the Santa Barbara Trust for Historic Preservation develop a comprehensive plan for the restoration of El Presidio de Santa Barbara and that the Santa Barbara City Council hold public hearings on that plan.

No further appropriation for El Presidio will be made by the Legislature until the Santa Barbara City Council has expressed its approval of that appropriation.

13. No funds appropriated in category (ss) of this item for the construction of the San Joaquin Valley Agricultural Museum shall be encumbered unless and until the Department of Parks and Recreation has received an equal amount of funds from nonstate sources.

14. No funds appropriated in category (uu) for the construction of a visitor center at the Fort Ross SHP shall be encumbered if SB 705 of the 1981–82 Regular Session is enacted into law.

CHAPTER 519

An act to amend Sections 798.15, 798.25, 798.26, 798.36, 798.37, 798.50, 798.55, 798.56, 798.75, 798.77, 798.85, 798.86, 799.1, 799.2, 799.4, and 799.6 of the Civil Code, relating to mobilehomes.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 798.15 of the Civil Code is amended to read:

798.15. The rental agreement shall be in writing and shall contain, in addition to the provisions otherwise required by law to be included, all of the following:

(a) The term of the tenancy and the rent therefor.

(b) The rules and regulations of the park.

(c) The language of the provisions of this chapter. A copy of the text of this chapter attached as an exhibit shall be deemed to satisfy the requirements of this section.

(d) A provision specifying that it is the responsibility of the management to provide and maintain physical improvements in the common facilities in good working order and condition.

(e) A description of the physical improvements to be provided the homeowner during his or her tenancy.

(f) A provision listing those services which will be provided at the time the rental agreement is executed and will continue to be offered for the term of tenancy and the fees, if any, to be charged for those services.

(g) A provision stating that management may charge a reasonable fee for services relating to the maintenance of the land and premises upon which a mobilehome is situated in the event the homeowner fails to maintain such land or premises in accordance with the rules and regulations of the park after written notification to the homeowner and the failure of the homeowner to comply within 14 days. The written notice shall state the specific condition to be corrected and an estimate of the charges to be imposed by management if the services are performed by management or its agent.

(h) All other provisions governing the tenancy.

SEC. 2. Section 798.25 of the Civil Code is amended to read:

798.25. A rule or regulation of the park may be amended at any time with the consent of a homeowner, or without his or her consent upon written notice to him or her of not less than six months, except for regulations applicable to recreational facilities which may be amended without his or her consent upon written notice to him or her of not less than 60 days. Written notice to a new homeowner, whose tenancy commences within the required period of notice, of a proposed amendment shall constitute compliance with this section

where the written notice is given to him or her before the inception of his or her tenancy.

SEC. 3. Section 798.26 of the Civil Code is amended to read:

798.26. (a) Except as provided in subdivision (b), and notwithstanding any other provision of law to the contrary, the ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes shall have no right of entry to a mobilehome without the prior written consent of the resident. Such consent may be revoked in writing by the resident at any time. The ownership or management shall have a right of entry upon the land upon which a mobilehome is situated for maintenance of utilities, for maintenance of the premises in accordance with the rules and regulations of the park when the homeowner or resident fails to so maintain the premises, and protection of the mobilehome park, subdivision, cooperative, or condominium at any reasonable time, but not in a manner or at a time which would interfere with the resident's quiet enjoyment.

(b) The ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes may enter a mobilehome without the prior written consent of the resident in case of an emergency or when the resident has abandoned the mobilehome.

SEC. 4. Section 798.36 of the Civil Code is amended to read:

798.36. A homeowner shall not be charged a fee for the enforcement of any of the rules and regulations of the park, except a reasonable fee may be charged by management for the maintenance of the land and premises upon which the mobilehome is situated in the event the homeowner fails to do so in accordance with the rules and regulations of the park after written notification to the homeowner and the failure of the homeowner to comply within 14 days. The written notice shall state the specific condition to be corrected and an estimate of the charges to be imposed by management if the services are performed by management or its agent.

SEC. 5. Section 798.37 of the Civil Code is amended to read:

798.37. A homeowner shall not be charged a fee for the entry, installation, hookup, or landscaping as a condition of tenancy except for an actual fee or cost imposed by a local governmental ordinance or requirement directly related to the occupancy of the specific site upon which the mobilehome is located and not incurred as a portion of the development of the mobilehome park as a whole. However, reasonable landscaping and maintenance requirements may be included in the park rules and regulations. The management shall not require a homeowner or prospective homeowner to purchase, rent, or lease goods or services for landscaping from any person, company, or corporation.

SEC. 6. Section 798.50 of the Civil Code is amended to read:

798.50. The management shall permit meetings by homeowners or residents of a mobilehome in the park, or any or all of them,

relating to mobilehome living and affairs to be held in any of the park community or recreation halls if the meeting is held at a reasonable hour and when the facility is not otherwise in use.

SEC. 7. 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 homeowner 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 homeowner, by United States mail within 10 days after notice to the homeowner, addressed to the legal and registered owners at their addresses, as set forth in the registration card specified in Section 18091.5 of the Health and Safety Code.

SEC. 8. 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 homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, which constitutes a substantial annoyance to other homeowners or residents.

(c) Failure of the homeowner or resident 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 homeowner or resident shall constitute such a failure to comply unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been

violated.

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided, that the homeowner 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 homeowner 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 homeowner prior to the expiration of the three-day notice period, or payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, or registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner 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 homeowner 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 homeowner, 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 homeowners 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) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

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 homeowner written notice thereof prior to the inception of his or her 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 798.56 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 be governed by the law in effect at

the time the notice was given.

SEC. 9. Section 798.75 of the Civil Code is amended to read:

798.75. An escrow, sale, or transfer agreement involving a mobilehome located in a park at the time of the sale, where the mobilehome is to remain in the park, shall contain a provision signed by the purchaser stating that, by such signature he or she has agreed to the terms of a rental agreement. A copy of a fully executed rental agreement signed by both the purchaser and park management will satisfy the requirements of this section. In the event the purchaser fails to execute the rental agreement, the purchaser shall not have any rights of tenancy.

SEC. 10. Section 798.77 of the Civil Code is amended to read:

798.77. No rental or sale agreement shall contain a provision by which the purchaser or homeowner waives his or her rights under this chapter. Any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 11. Section 798.85 of the Civil Code is amended to read:

798.85. In any action arising out of the provisions of this chapter the prevailing party shall be entitled to reasonable attorney's fees and costs. A party shall be deemed a prevailing party for the purposes of this section if the judgment is rendered in his or her favor or where the litigation is dismissed in his or her favor prior to or during the trial, unless the parties otherwise agree in the settlement or compromise.

SEC. 12. Section 798.86 of the Civil Code is amended to read:

798.86. In the event a homeowner or former homeowner of a park is the prevailing party in a civil action against the management to enforce his or her rights under the provisions of this chapter, the homeowner, in addition to damages afforded by law, may, in the discretion of the court, be awarded an amount not to exceed five hundred dollars ($500) for each willful violation of those provisions by the management.

SEC. 13. Section 799.1 of the Civil Code is amended to read:

799.1. A resident may advertise the sale or exchange of his or her mobilehome or, if not prohibited by the terms of an agreement with the management or ownership, may advertise the rental of his or her mobilehome by displaying a sign in the window of his or her mobilehome stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his or her agent. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his or her agent, and may be at least 12 inches in width and 12 inches in length.

SEC. 14. Section 799.2 of the Civil Code is amended to read:

799.2. The ownership or management shall not show or list for sale a mobilehome owned by a resident without first obtaining the resident's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

Nothing contained in this section shall be construed to affect the provisions of the Health and Safety Code governing the licensing of

mobilehome salesmen.

SEC. 15. Section 799.4 of the Civil Code is amended to read:

799.4. The ownership or management may require the right to prior approval of the purchaser of a mobilehome that will remain in the subdivision, cooperative, or condominium for mobilehomes and that the selling resident or his or her agent give notice of the sale to the ownership or management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the fees and charges of the subdivision, cooperative, or condominium unless the ownership or management reasonably determines that, based on the purchaser's prior residences, he or she will not comply with the rules and regulations of the subdivision, cooperative, or condominium.

SEC. 16. Section 799.6 of the Civil Code is amended to read:

799.6. No agreement shall contain any provision by which the purchaser waives his or her rights under the provisions of this article. Any such waiver shall be deemed contrary to public policy and void and unenforceable.

SEC. 17. Section 798.50 of the Civil Code is amended to read:

798.50. The management shall permit meetings by homeowners or residents of a mobilehome in the park, or any or all of them, relating to mobilehome living or social or educational purposes to be held in any of the park community or recreation halls if the meeting is held at a reasonable hour and when the facility is not otherwise in use.

SEC. 18. 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 homeowner 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, as defined in Section 18005.8 of the Health and Safety Code, each junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner, addressed to the legal owner, each junior lienholder, and registered owner at their addresses, as set forth in the registration card specified in Section 18091.5 of the Health and Safety Code.

SEC. 19. 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 homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, which constitutes a substantial annoyance to other homeowners or residents.

(c) Failure of the homeowner or resident 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 homeowner or resident shall constitute such a failure to comply unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided, that the homeowner 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 homeowner 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 homeowner prior to the expiration of the three-day notice period, or payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as determined in Section 18005.3 of the Health and Safety Code, or registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, or registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to such payment. The homeowner 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, any junior lienholder, or registered owner, if other than the homeowner, 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 homeowners 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) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

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 homeowner written notice thereof prior to the inception of his or her 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 798.56 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 be governed by the law in effect at the time the notice was given.

SEC. 20. Section 17 of this bill incorporates amendments to Section 798.50 of the Civil Code proposed by both this bill and AB 874. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 798.50 of the Civil Code, and (3) this bill enacted after AB 874, in which case Section 6 of this bill shall not become operative.

SEC. 21. Section 18 of this bill incorporates amendments to Section 798.55 of the Civil Code proposed by both this bill and SB 1035. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) each bill amends Section 798.55 of the Civil Code, and (3) this bill is enacted after SB 1035, in which case Section 798.55 of the Civil Code, as amended by Section 7 of this bill, shall remain operative only until the operative date of the amendments to Section 798.55 contained in SB 1035 at which time Section 18 of this bill shall become operative.

SEC. 22. Section 19 of this bill incorporates amendments to Section 798.56 of the Civil Code proposed by both this bill and SB 1035. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (3) this bill is enacted after SB 1035, in which case Section 798.56 of the Civil Code, as amended by Section 8 of this bill

shall remain operative only until the operative date of the amendments to Section 798.56 contained in SB 1035 at which time Section 19 of this bill shall become operative.

CHAPTER 520

An act to amend Section 3060 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 3060 of the Vehicle Code is amended to read:

3060. Notwithstanding the terms of any franchise, no franchisor shall terminate or refuse to continue any existing franchise unless:

(a) The franchisee and the board have received written notice from the franchisor as follows:

(1) Sixty days before the effective date thereof setting forth the specific grounds for termination or refusal to continue.

(2) Fifteen days before the effective date thereof setting forth the specific grounds with respect to any of the following:

(A) Transfer of any ownership or interest in the franchise without the consent of the franchisor, which consent shall not be unreasonably withheld.

(B) Misrepresentation by the franchisee in applying for the franchise.

(C) Insolvency of the franchisee, or filing of any petition by or against the franchisee under any bankruptcy or receivership law.

(D) Any unfair business practice after written warning thereof.

(E) Failure of the motor vehicle dealer to conduct its customary sales and service operations during its customary hours of business for seven consecutive business days, giving rise to a good faith belief on the part of the franchisor that the motor vehicle dealer is in fact going out of business, except for circumstances beyond the direct control of the motor vehicle dealer or by order of the department.

(3) The written notice shall contain, on the first page thereof, a conspicuous statement which reads as follows: "NOTICE TO DEALER: You may be entitled to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. It is important that you act promptly."

(b) The board finds that there is good cause for termination or refusal to continue, following a hearing called pursuant to Section 3066. The franchisee may file a protest with the board within 30 days after receiving a 60-day notice or within 10 days after receiving a

15-day notice. When a protest is filed, the board shall advise the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor may not terminate or refuse to continue until the board makes its findings.

(c) The franchisor has received the written consent of the franchisee, or the appropriate period for filing a protest has elapsed.

The franchisor shall not modify or replace a franchise with a succeeding franchise if the modification or replacement would substantially affect the franchisee's sales or service obligations or investment, unless the franchisor has first given the board and each affected franchisee notice thereof at least 60 days in advance of the modification or replacement. Within 30 days of receipt of the notice, a franchisee may file a protest with the board and the modification or replacement does not become effective until there is a finding by the board that there is good cause for the modification or replacement. If, however, a replacement franchise is the successor franchise to an expiring or expired term franchise, the prior franchise shall continue in effect until resolution of the protest by the board. In the event of multiple protests, hearings shall be consolidated to expedite the disposition of the issue.

CHAPTER 521

An act to add Section 1531.5 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 1531.5 is added to the Health and Safety Code, to read:

1531.5. (a) The State Department of Social Services shall not deny a license for a foster family home solely on the basis that the applicant is a parent who has administered corporal punishment not constituting child abuse, or will continue to administer such corporal punishment, to his or her own children.

(b) Nothing in this section shall be construed to prevent the state department from denying a license for a foster care home where the applicant has been found by the state department to have engaged in child abuse.

(c) As used in this section, "child abuse" means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

(d) Nothing in this section shall be construed to permit a foster parent to administer any corporal punishment to a foster child.

CHAPTER 522

An act to add Section 1719 to the Civil Code, relating to commercial paper.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 1719 is added to the Civil Code, to read:

1719. Notwithstanding any penal sanctions which may apply, any person who makes, utters, draws, or delivers any check, or draft, or order upon any bank or depository, or person, or firm, or corporation, for the payment of money, which refuses to honor the same for lack of funds or credit to pay, or because the maker has no account with the drawee, and who fails to pay the same amount in cash to the payee within 30 days following a written demand therefor delivered to the maker by certified mail, shall be liable to the payee, in addition to the amount owing upon such check or draft or order damages of treble the amount so owing, but in no case less than one hundred dollars ($100), and in no case more than five hundred dollars ($500).

A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court.

CHAPTER 523

An act to add Section 14462 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 14462 is added to the Welfare and Institutions Code, to read:

14462. (a) Except as otherwise provided in this chapter, each prepaid health plan shall be responsible for all of the costs of services rendered under the provisions of this chapter to any Medi-Cal beneficiary enrolled in the plan.

(b) The department shall bear the costs of providing to each Medi-Cal beneficiary enrolled in a prepaid health plan the services covered under the plan, to the extent that the aggregate of these costs, based on Medi-Cal reimbursement levels, and exclusive of third-party recoveries, exceeds the 12-month risk limit. The risk limit shall not exceed twenty-five thousand dollars ($25,000) based on Medi-Cal reimbursement levels, shall be specified in the contract between the department and the plan, and shall be determined concurrently with the annual determination of rates of payment.

The department shall have the authority to adopt regulations to increase the risk limit, to an amount not to exceed thirty-five thousand dollars ($35,000). Regulations to increase the risk limit shall be based upon and supported by:

(a) Changes in prepaid health plan rates paid by the department.

(b) Changes in the medical component of the Consumer Price Index (CPI) as actuarily determined by the department. It is the intent of the Legislature that these risk limit adjustments are not to exceed thirty-five thousand dollars ($35,000) until the 1986–87 fiscal year or beyond. For plans having contracts in existence on the effective date of this section, the risk limit shall be announced on or before the first day of each state fiscal year, to become effective concurrently with the effective date for the new rates of payment for the next succeeding state fiscal year.

Within 90 days of the receipt of the documentation required under paragraph (2) of subdivision (b), the department shall pay the reimbursement provided for by this section to the extent that it determines that the services rendered were medically necessary, and that the amount of the payments sought for those services is reasonable. The department may, if a dispute exists as to whether the services rendered were medically necessary or if the amount of the payments for those services was reasonable, delay paying the reimbursement for such services until a final determination of the dispute is made.

(1) Each prepaid health plan shall arrange and provide initial payment, at Medi-Cal reimbursement levels, for medically necessary care for any Medi-Cal beneficiary enrolled in the plan when the cost for this care exceeds the 12-month risk limit. No person shall be disenrolled by any prepaid health plan for the sole reason that the

cost of his or her care under the plan has exceeded the risk limit.

(2) As a condition of reimbursement for costs of care in excess of the risk limit as to a Medi-Cal beneficiary enrolled in a prepaid health plan, the plan must submit to the department, in a format to be designated by the department, documentation of all costs incurred for services to the beneficiary during the 12-month period.

(c) No prepaid health plan may enter into any subcontract that would in any way limit its obligation assumed under this chapter to retain the significant risk of the cost of services rendered under this chapter to any Medi-Cal beneficiary enrolled in the plan.

(d) As a condition of the department's approval of any subcontract entered into by a prepaid health plan under this chapter, the plan shall specify its retention of significant risk by designating one of the options under subdivision (e) as its operating definition of significant risk, or by any other method approved by the department that would meet the requirement set forth in subdivision (c).

(e) "Significant risk" means financial responsibility for either of the following:

(1) All expenditures in excess of 115 percent of the specified total expenditures estimated under each subcontract.

(2) All inpatient hospitalization expenditures as determined by the department, including expenditures for services connected with hospitalization.

CHAPTER 524

An act to amend Section 663.7 of the Harbors and Navigation Code, and to amend Section 5010 of the Public Resources Code, relating to boating.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 663.7 of the Harbors and Navigation Code is amended to read:

663.7. (a) Each county of the state is entitled to receive state financial aid for boating safety and enforcement programs on waters under its jurisdiction as provided in this section. A boating safety and enforcement program, as used in this section, includes search and rescue operations, recovery of drowned bodies, enforcement of state and local measures for regulation of boating activities, inspection of vessels, and supervision of organized water events.

(b) An entity other than a county, including the Department of Parks and Recreation, is entitled to receive aid for boating safety and enforcement programs on waters under its jurisdiction through the

county in which it lies, and that aid shall be counted as aid to the county; except that aid provided under subdivision (d) for boating safety and enforcement programs of the Department of Parks and Recreation for waters under its jurisdiction shall not be counted as aid to a county.

(c) The amount of aid for which a county or other entity or agency is eligible under this section shall not exceed the total cost of its boating safety and enforcement program needs, less the moneys derived from personal property taxes on boats and fees charged for inspection of vessels for equipment, capacity, seaworthiness, or pollution control, as determined in accordance with a formula prescribed by the department. The department's formula shall specify the number of square miles of boating waters and the amount of use which will require one safety patrol unit and shall express such unit in terms of its cost.

(d) Aid for boating safety and enforcement programs shall be made available to the Department of Parks and Recreation for waters under its jurisdiction in accordance with a boat entry unit cost factor derived by dividing the most recent annual boat entry count into the maximum amount available and appropriated for those programs in the 1969–70 fiscal year. Budgets for those programs shall be estimated for each fiscal year and adjustments shall be made thereto for the previous year in accordance with the actual boat entry count as it becomes available multiplied by the boat entry unit cost factor. The amount thus determined shall be available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund.

(e) Entities or agencies desiring aid under this section shall submit applications to the department at least six months prior to the period for which aid is required. Applications shall be in the form and contain the information that the department may require.

(f) Within 90 days after the close of any period for which aid is received, the entity or agency shall submit to the department a statement of the expenditures actually incurred, in the form and containing the information that the department may require.

(g) The department shall be responsible for the administration of this section, and may adopt rules and regulations that may be necessary to carry out its provisions. The department shall make periodic evaluations of the effectiveness of programs receiving aid under this section.

SEC. 1.5. Section 663.7 of the Harbors and Navigation Code is amended to read:

663.7. (a) Each county of the state is entitled to receive state financial aid for boating safety and enforcement programs on waters under its jurisdiction as provided in this section. A boating safety and enforcement program, as used in this section, includes search and rescue operations, recovery of drowned bodies, enforcement of state and local measures for regulation of boating activities, inspection of vessels, and supervision of organized water events.

(b) An entity other than a county, including the Department of Parks and Recreation, is entitled to receive aid for boating safety and enforcement programs on waters under its jurisdiction through the county in which it lies, and that aid shall be counted as aid to the county; except that aid provided under subdivision (e) for boating safety and enforcement programs of the Department of Parks and Recreation for waters under its jurisdiction shall not be counted as aid to a county.

(c) The amount of aid for which a county or other entity or agency is eligible under this section shall not exceed the total cost of its boating safety and enforcement program needs, less the moneys derived from personal property taxes on boats and fees charged for inspection of vessels for equipment, capacity, seaworthiness, or pollution control, as determined in accordance with a formula prescribed by the department. The department's formula shall specify the number of square miles of boating waters and the amount of use which will require one safety patrol unit and shall express such unit in terms of its cost.

(d) Notwithstanding subdivisions (b) and (c), a port or harbor district having a boating safety and enforcement program as of January 1, 1983, located within a county that (1) does not have a boating safety and enforcement program as of January 1, 1983, and (2) does not apply for aid under this section, may itself directly apply for aid under this section. The amount of aid for which a port or harbor district is eligible shall not exceed the total cost of its boating safety and enforcement program needs.

(e) Aid for boating safety and enforcement programs shall be made available to the Department of Parks and Recreation for waters under its jurisdiction in accordance with a boat entry unit cost factor derived by dividing the most recent annual boat entry count into the maximum amount available and appropriated for those programs in the 1969–70 fiscal year. Budgets for those programs shall be estimated for each fiscal year and adjustments shall be made thereto for the previous year in accordance with the actual boat entry count as it becomes available multiplied by the boat entry unit cost factor. The amount thus determined shall be available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund.

(f) Entities or agencies desiring aid under this section shall submit applications to the department at least six months prior to the period for which aid is required. Applications shall be in the form and contain the information that the department may require.

(g) Within 90 days after the close of any period for which aid is received, the entity or agency shall submit to the department a statement of the expenditures actually incurred, in the form and containing the information as the department may require.

(h) The department shall be responsible for the administration of this section, and may adopt rules and regulations that may be necessary to carry out its provisions. The department shall make

periodic evaluations of the effectiveness of programs receiving aid under this section.

SEC. 2. Section 5010 of the Public Resources Code is amended to read:

5010. (a) The department, whenever in its judgment it is practicable to do so, shall collect fees, rentals, and other returns for the use of any state park system area, the amounts to be determined by the department.

(b) An amount not to exceed seven million dollars ($7,000,000) of the revenues received by the department during each fiscal year, which consist of fees, rentals, or returns collected for the use of any state park system area, other than the Hearst San Simeon State Historical Monument and the state vehicular recreation areas, and other than fees received from the use of boats or boating facilities, shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund, which is hereby created. Any such revenues in excess of seven million dollars ($7,000,000) shall be paid into the General Fund.

(c) All revenues received by the department consisting of fees and other proceeds collected at the Hearst San Simeon State Historical Monument shall be paid into the General Fund. All revenues received by the department consisting of fees and other proceeds collected at state vehicular recreation areas shall be paid into the Off-Highway Vehicle Fund, as required by Section 38225 of the Vehicle Code.

(d) All revenues received by the department for the entry or launching of boats shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund and shall be used for boating safety, enforcement, operation, and maintenance programs of the department.

(e) On July 1, 1980, all existing balances, including unappropriated balances and encumbered and unencumbered balances, of the following funds and accounts shall be transferred to the State Parks and Recreation Fund:

(1) Park and Recreation Revolving Account (Section 5098, Public Resources Code, as added by Chapter 1222, Statutes of 1972).

(2) The Resources Protection Account (Section 8600, Public Resources Code, as added by Chapter 1052, Statutes of 1969).

(3) Collier Park Preservation Fund (Section 5010, Public Resources Code, as added by Chapter 1502, Statutes of 1974).

(4) San Francisco Maritime State Historic Park Account (Section 2, Chapter 1764, Statutes of 1971).

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107.7, Streets and Highways Code, as added by Chapter 1032, Statutes of 1973).

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000).

(7) Hostel Facilities Use Fees Account (Section 2, Chapter 265, Statutes of 1974).

(8) All funds, other than expended funds, previously appropriated to the department from the Bagley Conservation Fund.

(f) On and after July 1, 1980, all funds, other than those specified in subdivisions (g) and (h), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, and state park resource management and protection, when appropriated by the Legislature.

(g) All funds in the State Parks and Recreation Fund which had previously been appropriated and have become encumbered, may be used, without further appropriation, for liquidation of such encumbrances, upon the same terms and conditions as made by such previous appropriations.

(h) The balance of any unencumbered funds in the State Park Highway Account in the Bagley Conservation Fund shall be transferred to the State Parks and Recreation Fund and shall be available for expenditure as provided in subdivisions (b) and (c) of Section 2107.7 of the Streets and Highways Code.

SEC. 3. Section 5010 of the Public Resources Code is amended to read:

5010. (a) The department, whenever in its judgment it is practicable to do so, shall collect fees, rents, and other returns for the use of any state park system area, the amounts to be determined by the department.

(b) All revenues received by the department during each fiscal year shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund, which is hereby created.

(c) Notwithstanding subdivision (b), all revenues received by the department from the state vehicular recreation area and trail system shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund, as required by Section 38225 of the Vehicle Code.

(d) All revenues received by the department for the entry or launching of boats shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund and shall be used for boating safety, enforcement, operation, and maintenance programs of the department.

(e) On July 1, 1980, all existing balances, including unappropriated balances and encumbered and unencumbered balances, of the following funds and accounts shall be transferred to the State Parks and Recreation Fund:

(1) Park and Recreation Revolving Account (Section 5098, Public Resources Code, as added by Chapter 1222, Statutes of 1972).

(2) The Resources Protection Account (Section 8600, Public Resources Code, as added by Chapter 1052, Statutes of 1969).

(3) Collier Park Preservation Fund (Section 5010, Public Resources Code, as added by Chapter 1502, Statutes of 1974).

(4) San Francisco Maritime State Historic Park Account (Section 2, Chapter 1764, Statutes of 1971).

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107.7, Streets and Highways Code, as added by Chapter

1032, Statutes of 1973).

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000).

(7) Hostel Facilities Use Fees Account (Section 2, Chapter 265, Statutes of 1974).

(8) All funds, other than expended funds, previously appropriated to the department from the Bagley Conservation Fund.

(f) On and after July 1, 1980, all funds, other than those specified in subdivisions (g) and (h), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

(g) All funds in the State Parks and Recreation Fund which had previously been appropriated and have become encumbered, may be used, without further appropriation, for liquidation of those encumbrances, upon the same terms and conditions as made by those previous appropriations.

(h) The balance of any unencumbered funds in the State Park Highway Account in the Bagley Conservation Fund shall be transferred to the State Parks and Recreation Fund and shall be available for expenditure as provided in subdivisions (b) and (c) of Section 2107.7 of the Streets and Highways Code.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 1657 are both chaptered and become effective January 1, 1984, both bills amend Section 663.7 of the Harbors and Navigation Code, and this bill is chaptered after Assembly Bill 1657, that the amendments to Section 663.7 proposed by both bills be given effect and incorporated in Section 663.7 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 1657 are both chaptered and become effective January 1, 1984, both amend Section 663.7 of the Harbors and Navigation Code, and this bill is chaptered after Assembly Bill 1657, in which case Section 1 of this act shall not become operative.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill 713 are both chaptered and become effective January 1, 1984, both bills amend Section 5010 of the Public Resources Code, and this bill is chaptered after Senate Bill 713, that the amendments to Section 5010 proposed by both bills be given effect and incorporated in Section 5010 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill 713 are both chaptered and become effective January 1, 1984, both amend Section 5010, and this bill is chaptered after Senate Bill 713, in which case Section 2 of this act shall not become operative.

CHAPTER 525

An act to amend Sections 68039, 68041, 68054.5, 68055, 68081, 68101, 68104, and 68134 of, and to add Sections 68114 and 68115 to, the Food and Agricultural Code, relating to kiwifruit, and making an appropriation therefor.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 68039 of the Food and Agricultural Code is amended to read:

68039. "Processor" means any person engaged, within this state, in the operation of canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any other manner changing the form of kiwifruit for the purpose of preparing it for market and marketing the kiwifruit, or who is engaged in any activities which are performed for the purpose of marketing processed kiwifruit. It does not, however, include a person who is engaged in manufacturing from kiwifruit so changed in form another and different product.

SEC. 2. Section 68041 of the Food and Agricultural Code is amended to read:

68041. "Producer" or "grower," means any person who is engaged, within this state, in the business of producing, or causing to be produced for market, kiwifruit, who shall, upon request, provide proof of commodity sale and proof of assessment payment during the preceding marketing season, or provide adequate proof, as determined by the commission, of actual or anticipated commodity sale and assessment payment during the existing marketing season.

SEC. 3. Section 68054.5 of the Food and Agricultural Code is amended to read:

68054.5. Each member of the commission, except the ex officio members, has an alternate member, who is elected in the same manner as the member. An alternate member, in the absence of the member for whom he or she is alternate, serves in place of the member on the commission, and has, and exercises, all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or the disqualification of a member, the alternate shall act as a member on the commission until a successor is elected and has qualified as provided in Section 68055.

SEC. 4. Section 68055 of the Food and Agricultural Code is amended to read:

68055. Any vacancy on the commission including, but not limited to, the failure of any person elected to the commission as a member or alternate member to continue in his position due to a change in

status making him ineligible to serve, or through death, removal, or resignation, shall be filled, for the term, by the commission by majority vote. However, that person shall fulfill all the qualifications set forth in this article as required for the office he or she is to fill. Qualifications of any person to fill a vacancy on the commission shall be certified, in writing, to the director. The director shall notify the commission if he or she determines that any such person is not qualified.

SEC. 5. Section 68081 of the Food and Agricultural Code is amended to read:

68081. The powers and duties of the commission, subject to Sections 68052 and 68053, include, but are not limited to, all of the following:

(a) To adopt, and from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including appeals from any bylaw, rule, regulation, or order of the commission in a manner established by the commission.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairman, one or more vice chairmen, and any other officers as it deems necessary. The officers have the powers and duties delegated to them by the commission.

(d) To employ a person to serve, at the pleasure of the commission, as president and chief executive officer of the commission and other personnel, including legal counsel, as necessary to carry out the provisions of this chapter. The commission may retain a management firm or any staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective, and if appropriate, disciplinary action be taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out the provisions of this chapter.

(g) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create any liabilities and borrow any funds in advance of receipt of assessments that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance

of its duties.

(h) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers and handlers of kiwifruit, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he or she determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(i) To promote the sale of kiwifruit by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for kiwifruit and to educate and instruct the public with respect to kiwifruit and the uses and time to use the several varieties and the healthful properties and nutritional value of kiwifruit.

(j) To educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling kiwifruit; to arrange for the performance of dealer service work providing display and other promotional materials; to make market surveys and analyses; to present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the marketing of kiwifruit.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements that the commission may deem necessary for the promotion of the sale of kiwifruit.

(*l*) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from such research or elsewhere respecting cultural and production practices, marketing, and distribution of kiwifruit. In connection with the research, the commission has the power to accept contributions of, or to match, private, state, or federal funds that may be available for such purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the kiwifruit industry to producers and handlers.

(n) To establish an assessment rate to defray operating costs of the commission.

(o) To establish an annual budget according to acceptable accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e).

(p) To submit a statement of contemplated annual activities authorized under this chapter, including advertising, promotion, marketing research, and production research, which shall be concurred in by the director.

(q) To manage, if requested by an advisory board, a board of directors, or any other authorized agent any governmental program establishing grades and standards for the kiwifruit industry.

(r) The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

SEC. 6. Section 68101 of the Food and Agricultural Code is amended to read:

68101. The commission shall not later than October 1 of each year, establish the assessment for the following year beginning October 1 and ending September 30. In no event shall the combined assessment of the commission and any other state authorized kiwifruit production research and market program exceed 6 percent of the gross dollar value of the year's sale of kiwifruit by all producers to handlers.

Expenditures for administrative purposes, as defined by the commission, within the maximum assessment shall not exceed 1½ percent of the gross dollar value of sales of kiwifruit by all producers to handlers.

The commission shall establish producer gross dollar value through rules and regulations, and may take into consideration postharvest expenses and the varying circumstances in handling kiwifruit.

SEC. 7. Section 68104 of the Food and Agricultural Code is amended to read:

68104. All proprietary information obtained by the commission or the director from producers or handlers, and all lists of producers in the possession of the commission or the director are confidential and shall not be disclosed except when required in a judicial proceeding. However, this section shall not be construed as preventing any person subject to the provisions of this chapter from personally inspecting any such list of producers at a time and location established by the director or the commission. This inspection shall not allow for duplicating or in any other way copying all or a portion of the information contained on any such list. Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other such information which the commission requires, excluding individual handler information, may be disclosed by the commission.

SEC. 8. Section 68114 is added to the Food and Agricultural Code, to read:

68114. It is not necessary for the commission to allege or prove that an adequate remedy at law does not exist in any action brought under this chapter.

SEC. 9. Section 68115 is added to the Food and Agricultural Code, to read:

68115. This chapter shall be liberally construed. If any section, clause, or part of this chapter is for any reason held to be

unconstitutional or invalid as applied to any person or as applied under certain circumstances, that decision shall not affect the remaining portions of this chapter or the application of this chapter to any other persons or under any other circumstance.

SEC. 10. Section 68134 of the Food and Agricultural Code is amended to read:

68134. After the effective date of suspension of the operation of the provisions of this chapter and of the commission, the operations of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to those persons, any such moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid to the University of California to fund research projects relating to kiwifruit.

CHAPTER 526

An act to amend Sections 31601 and 31601.1 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 31601 of the Government Code is amended to read:

31601. No investment shall be made in real property unless it is approved by six votes of the board or, where a county board of supervisors or a county board of education has a material interest in the property unless it is approved by nine votes of the board, or, if the investment is authorized by subdivision (e) of Section 31595, by nine votes of the board and a four-fifths vote of the members of the board of supervisors of the county in which the system is established or, if the investment is authorized by subdivision (g) of Section 31595, by nine votes of the board and a four-fifths vote of the members of the county board of education of the county in which the system is established.

SEC. 2. Section 31601.1 of the Government Code is amended to read:

31601.1. In counties having a board of investments pursuant to

Section 31520.2, no investment shall be made in real property unless it is approved by six votes of the board or, where a county board of supervisors or a county board of education has a material interest in the property unless it is approved by nine votes of the board, or, if the investment is authorized by subdivision (e) of Section 31595, by nine votes of the board and a four-fifths vote of the board of supervisors of the county in which the system is established or, if the investment is authorized by subdivision (g) of Section 31595, by nine votes of the board and a four-fifths vote of the members of the county board of education of the county in which the system is established.

CHAPTER 527

An act to amend Section 18701 of the Government Code, relating to the State Personnel Board rulemaking authority.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 18701 of the Government Code is amended to read:

18701. The board shall prescribe, amend, and repeal rules in accordance with law for the administration and enforcement of this part and other sections of this code over which the board is specifically assigned jurisdiction. Due notice of the contents of the rules shall be given to appointing powers and employees. Within a reasonable time after adoption, such rules and amendments shall be published in such manner as the board determines, and distributed free or at a reasonable cost.

CHAPTER 528

An act to add Section 17762.5 to the Education Code, relating to schools.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 17762.5 is added to the Education Code, to read:

17762.5. If, after a district has agreed to make annual contributions to the State School Deferred Maintenance Fund pursuant to subdivision (a) of Section 17761 in connection with a

capital outlay project, a reorganization occurs in which the real property upon which the project is located becomes the property of another district, the district which acquires the real property also succeeds to the obligation to make the contributions which are payable for each year commencing with the date reorganization becomes effective for all purposes. The county superintendent of schools having jurisdiction over the original district shall transmit to the executive officer of the State Allocation Board a certified copy of the order of the board of supervisors made pursuant to Section 35765, together with a statement, certified by the county superintendent of schools, of the facts relating to the transfer to another district of real property upon which the project is located. Upon receipt of the order and statement of facts, the executive officer shall certify to the Controller that for each year commencing with the date the reorganization becomes effective for all purposes, the original district is to be relieved of its obligation to make contributions relating to the project, and the contributions are to be deducted from apportionments of the district which acquires the real property. The Controller shall cease deductions from apportionments of the original district, and make deductions from apportionments of the acquiring district, in accordance with the certification from the executive officer of the State Allocation Board.

In those situations where a district which did not initiate the reorganization is acquiring real property or an obligation, the obligation is negotiable between the affected districts, and the executive officer of the State Allocation Board shall certify the negotiated amount to the Controller.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 529

An act to amend Section 56708 of the Food and Agricultural Code, relating to agricultural products, and making an appropriation therefor.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 56708 of the Food and Agricultural Code is amended to read:

56708. The director may only pay up to 50 percent of any claim from the products fund. In no case shall the total paid all the claimants under this chapter exceed fifty thousand dollars ($50,000) against any one licensee for any one license period.

CHAPTER 530

An act to amend Section 16709 of the Welfare and Institutions Code, relating to county health services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. The Legislature finds and declares that the orderly transition of responsibility for the health care needs of medically indigent adults under the Medi-Cal program from the state to the counties, pursuant to Chapters 328 and 1594 of the Statutes of 1982, must be ensured, particularly as to counties having small populations and limited resources.

Existing law permits any county with a population under 300,000 to contract with the state for the provision of health services to eligible county residents, and holds the state at risk for cost overruns under the contract until June 30, 1983. It is the intent of the Legislature that this assumption of risk by the state be extended for one additional year to permit sufficient cost and utilization information not presently available to be collected and analyzed in order to determine full year posttransition expenditure levels for the contract counties before exposing small counties to potentially catastrophic expenses.

Further, the Legislature directs the State Department of Health Services, in cooperation with the Department of Finance and interested representatives of county boards of supervisors, to review expenditure and utilization data of contract counties, and other jurisdictions, if necessary, and report to the Legislature by January 1, 1984, on contract county program costs, use by recipients, and estimated fiscal impact upon contract counties of assuming the total risk of cost overruns after June 30, 1984. This report shall also include recommendations of methods for management by the state and the counties of the total risk.

SEC. 2. Section 16709 of the Welfare and Institutions Code is amended to read:

16709. (a) The board of supervisors of a county with a population under 300,000, as determined in accordance with the 1980 decennial census, may enter into a contract with the department and the department may enter into a contract with such county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for such services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) For the period from January 1, 1983 to June 30, 1983, each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than November 15, 1982. For each fiscal year thereafter a notice adopted by the board shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish a separate account in the County Health Services Fund. The following amounts may be deposited in the account: (1) moneys allotted under subdivisions (c) and (d) of Section 16703 to each county electing to contract with the department under this section; (2) any interest earned upon money deposited in the account; (3) any other additional moneys provided by participating counties or appropriated by the Legislature to the account.

(e) Moneys in the account specified in subdivision (d) of this section shall be used by the department to (1) pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (i) of this section; and (2) defray the department's administrative costs incurred in implementing the provisions of this section. Costs for administering the provisions of this section shall be borne by the participating counties out of the account specified in subdivision (d). For costs of the initial implementation of the provisions of this section, which are incurred prior to signing contracts with the counties, the department is authorized to transfer up to five hundred thousand dollars ($500,000) from Item 4260-101-001(b) to Item 4260-101-001(c) to fund fiscal intermediary changes and to Item 4260-001-001 to fund additional staff. The funds shall be repaid from the account specified in subdivision (d) to the General Fund by June 30, 1984. Any change order to the Medi-Cal fiscal intermediary contract that is required to carry out this section of this act shall be exempted from the 30-day notice to the Legislature required by the Budget Act of 1982, Section 2, Item 4260-101-001, Provision 22. Such change order shall be exempt

from the Department of General Services review and approval. The funds shall be repaid by funds specified in subdivision (e) to the General Fund by June 30, 1984. Transfer of funds shall be subject to Department of Finance approval and legislative notification.

(f) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not 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 this fund, notwithstanding Section 16305.7 of the Government Code.

(g) At the end of each fiscal year, any savings in the account which accrue from contracts, once all service liabilities are liquidated, shall revert to the General Fund. The Governor may use these funds to establish an operating reserve for purposes of this section. If the Governor seeks to establish an operating reserve, the use of these funds shall be included in a separate line item in the Governor's Budget.

(h) Moneys appropriated pursuant to subdivision (c) and (d) of Section 16703 for counties electing to contract with the department pursuant to this section shall be deposited monthly as provided in subdivision (b) of Section 16706 in the account specified in subdivision (d) of this section after execution of the contract specified in subdivision (a). The Department of Finance may accelerate the deposit of such funds when necessary to meet cash flow requirements.

(i) The state shall be at risk for any amount over and above the amount deposited in the account specified in subdivision (d) of this section only until June 30, 1984. As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department in consultation with the counties may revise these eligibility criteria and benefits or reduce rates of payment during the fiscal year in order to assure that sufficient funds are available for health services to county residents certified as eligible for such services. For fiscal year 1984–85 and subsequent years, the counties shall be collectively at risk for any amount over and above that amount. Counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the account and may adjust eligibility and benefit criteria and payments accordingly.

(j) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of the Government Code. Contracts shall have no force and effect unless

approved by the Department of Finance.

(k) The state shall not incur any liability except as specified in this section.

SEC. 2.1. Section 16709 of the Welfare and Institutions Code is amended to read:

16709. (a) The board of supervisors of a county with a population under 300,000, as determined in accordance with the 1980 decennial census, may enter into a contract with the department and the department may enter into a contract with such county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for such services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) For the period from January 1, 1983, to June 30, 1983, each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than November 15, 1982. For each fiscal year thereafter a notice adopted by the board of supervisors shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish a separate account in the County Health Services Fund. The following amounts may be deposited in the account: (1) moneys allotted under subdivisions (c) and (d) of Section 16703 to each county electing to contract with the department under this section; (2) any interest earned upon money deposited in the account; (3) any other additional moneys provided by participating counties or appropriated by the Legislature to the account.

(e) Moneys in the account specified in subdivision (d) of this section shall be used by the department to (1) pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (i) of this section; and (2) defray the department's administrative costs incurred in implementing the provisions of this section. Costs for administering the provisions of this section shall be borne by the participating counties out of the account specified in subdivision (d). For costs of the initial implementation of the provisions of this section, which are incurred prior to signing contracts with the counties, the department is authorized to transfer up to five hundred thousand dollars ($500,000) from Item 4260-101-001(b) to Item 4260-101-001(c) to fund fiscal intermediary changes and to Item 4260-001-001 to fund additional staff. The funds shall be repaid from the account specified in subdivision (d) to the General Fund by June 30, 1984. Any change order to the Medi-Cal fiscal intermediary contract that is required to

carry out this section of this act shall be exempted from the 30-day notice to the Legislature required by the Budget Act of 1982, Section 2, Item 4260-101-001, Provision 22. Such change order shall be exempt from the Department of General Services review and approval. The funds shall be repaid by funds specified in subdivision (e) to the General Fund by June 30, 1984. Transfer of funds shall be subject to Department of Finance approval and legislative notification.

(f) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not 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 this fund, notwithstanding Section 16305.7 of the Government Code.

(g) At the end of the 1982–83 fiscal year, any savings in the account which accrue from contracts, once all service liabilities are liquidated, shall be transferred to an operating reserve for purposes of this section.

(h) At the end of the 1983–84 fiscal year and thereafter, at the end of each fiscal year, any savings in the account which accrue from contracts, once all service liabilities are liquidated, shall revert to the General Fund. The Governor may use these funds so reverted to establish an operating reserve for purposes of this section. If the Governor seeks to establish an operating reserve, the use of these funds shall be included in a separate line item in the Governor's Budget.

(i) Moneys appropriated pursuant to subdivision (c) and (d) of Section 16703 for counties electing to contract with the department pursuant to this section shall be deposited monthly as provided in subdivision (b) of Section 16706 in the account specified in subdivision (d) of this section after execution of the contract specified in subdivision (a). The Department of Finance may accelerate the deposit of such funds when necessary to meet cash flow requirements.

(j) The state shall be at risk for any amount over and above the amount deposited in the account specified in subdivision (d) of this section only until June 30, 1984. As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department in consultation with the counties may revise these eligibility criteria and benefits or reduce rates of payment during the fiscal year in order to assure that sufficient funds are available for health services to county residents certified as eligible for such services. For fiscal year 1984–85 and subsequent years, the counties shall be collectively at risk for any amount over and above that amount. Counties and the department shall work collectively to

ensure that expenditures do not exceed the funds available in the account and may adjust eligibility and benefit criteria and payments accordingly.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

SEC. 2.5. It is the intent of the Legislature, if this bill and Assembly Bill 223 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 16709 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 223, that Section 16709 of the Welfare and Institutions Code, as amended by Section 132.3 of Assembly Bill 223, 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 16709 proposed by this bill. Therefore, if this bill and Assembly Bill 223 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 223 is chaptered before this bill and amends Section 16709, 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.

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 ensure the continued fiscal integrity of county health services programs under circumstances where a county is contracting with the state for program administration, it is necessary that this act go into immediate effect.

CHAPTER 531

An act to add Chapter 13 (commencing with Section 75001) to Division 22 of the Food and Agricultural Code, relating to agricultural marketing, and making an appropriation therefor.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Chapter 13 (commencing with Section 75001) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 13. CALIFORNIA EGG COMMISSION

Article 1. Declaration and General Provisions

75001. Eggs and egg products constitute one of the basic, natural foods of the diet. The maintenance and expansion of existing markets and the development of new and improved markets and uses are vital and necessary to prevent the further decline in per capita consumption of eggs and egg products; to protect the welfare of the egg producer; and to provide employment for the work force. The Legislature also recognizes that this maintenance and expansion of the market for eggs is vital to the economy of California.

75002. The protection and enhancement of the reputation of California eggs and egg products in intrastate, interstate, and foreign markets, and the elimination of unreasonable and unnecessary economic waste of the agricultural wealth of this state is an essential aspect of the activities authorized in this chapter.

75003. It is hereby declared to be the policy of this state to aid in the marketing of eggs and egg products, to develop more efficient and equitable methods in marketing, and to maintain job security for workers in the egg industry.

75004. The production and marketing of eggs and egg products produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

75005. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, education, economic research and marketing research.

75006. No action taken by the commission, nor by any individual in accordance with this chapter or with the rules and regulations adopted under the chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

Article 2. Definitions

75021. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

75022. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to of this chapter.

75023. "Commission" means the California Egg Commission.

75024. "Commissioner" means any member of the commission.

75025. "Director" means the Director of Food and Agriculture.

75026. "Districts" mean the following:

(a) District 1 (Southern California) consists of the counties of San Diego, Imperial, Orange, Riverside, San Bernardino, Ventura, Santa Barbara, Kern and San Luis Obispo.

(b) District 2 (Northern California) consists of all counties not included in District 1.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, to ensure proper representation by handlers. The boundaries need not coincide with county lines.

75027. "Eggs" or "eggs and egg products" means eggs from domesticated chickens produced in California and sold for human consumption either in shell egg form or for processing into egg products or use in food processing, except those eggs used for hatchery purposes.

75028. "Ex officio member" means a nonvoting member of the commission.

75029. "Handle" means to engage in the business of a handler.

75030. "Handler" means any person who engages in the operation of selling or marketing eggs or egg products which he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, or broker or otherwise. However, "handler" does not include a retailer, except a retailer who purchases or acquires from, or handles on behalf of, any producer eggs or egg products which were not previously subject to regulation by the commission.

75031. "Market" or "marketing" means to sell or otherwise distribute eggs or egg products into commercial channels of trade resulting in the sale of eggs or egg products.

75032. "Marketing research" means any research relating to the sale of eggs or egg products.

75033. "Marketing season" or "fiscal year" means the period beginning January 1 of each year and extending through December 31 of the same year. However, the 1984–85 marketing season shall commence within 30 days after the election of the first commission members as provided in Article 5 (commencing with Section 75111).

75034. "Process" means the liquidizing, drying, freezing, or altering the whole or any part of the egg from the original shell form.

75035. "Producer" means any person who is engaged within this state in the business of producing, or causing to be produced, eggs or egg products for market.

75036. "Secondary handler" means any person who purchases from a handler, eggs or egg products subject to the provisions of this chapter.

Article 3. The California Egg Commission

75051. There is in the state government the California Egg Commission. The commission shall be composed of seven handler members, of which four shall be elected by and from handlers from District 1, and three shall be elected by and from handlers from District 2, and one public member.

75052. The public member shall be appointed to the commission by the director from the nominees recommended by the commission.

75053. The director, and other appropriate individuals and organizations, as determined by the commission, are ex officio members of the commission.

75054. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

(b) If the commission refuses or fails to cease the activities or functions or to make the corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions required by the director has been accomplished by the commission.

75055. (a) Actions of the commission in violation of a written notice have no legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(b) Upon service of the written notice, the director shall notify the commission, in writing, of the specific acts which he or she determines are not in the public interest or are in violation of this chapter and his or her reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and he or she may make recommendations that will make the activities or functions acceptable.

75056. The commission may bring an action for judicial relief from the director's written notice, and the director may bring an action for judicial relief from noncompliance by the commission with the written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

75057. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities under this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to the action.

75058. (a) Two alternate members, one from each district, shall be elected in the same manner as the members.

(b) Any alternate member may serve in place of any absent member on the commission regardless of whether the alternate was chosen from the district the absent member represents and shall have all the rights, privileges, and powers of the member when serving on the commission.

(c) In the event of death, removal, resignation, or disqualification of a member, the alternate shall act as a member on the commission until a qualified successor is elected.

75059. (a) Any vacancy on the commission occurring for any reason, including the failure of any elected member or elected alternate member to continue in his or her position due to a change in status making him or her ineligible to serve, or due to death, removal, resignation, or disqualification, shall be filled for the unexpired portion of the term by appointment by a majority vote of the commission.

(b) The person so appointed shall fulfill all the requirements set forth in this article for the member or the alternate member whose office he or she is to fill.

(c) The qualification of any person to fill a vacancy on the commission shall be certified by the commission, in writing, to the director. The director shall notify the commission if he or she determines that the person is not qualified.

75060. (a) Any handler member or his or her alternate shall be an individual, partner, or employee of a handler who has a financial interest in handling eggs or egg products for market. Not more than two handler members on the commission and not more than one handler member in any district shall be employed by or represent the same corporation, firm, partnership, association, or business organization.

(b) A handler member or alternate shall meet this requirement during the entire term of office.

75061. The public member or his or her alternate has all the powers, rights, responsibilities, and privileges of any other member on the commission.

The public member shall not have any financial interest in the egg industry during the entire term of office.

75062. (a) Except as provided in subdivision (b), the term of office of the elected commissioners is three years from the date of their election and until their successors are qualified and elected.

(b) With respect to the first elected members of the commission, two of the handlers from District 1 and two of the handlers from District 2 shall serve for three years, and two of the handlers from District 1 and one of the handlers from District 2 shall serve for two years, with the determination of the term of each member to be made by lot.

(c) An elected or appointed commissioner shall not serve more than three consecutive terms.

75063. The public member shall serve a term of three years and shall remain on the commission after the expiration of three years until his or her successor is qualified and appointed.

75064. (a) The commission shall be and is hereby declared and created as a corporate body.

(b) It may sue and be sued, may contract and be contracted with, and has all of the powers of a corporation. It may adopt a corporate seal.

(c) Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

75065. A quorum of the commission is five voting commissioners. Except as otherwise provided in this chapter, the commission may act by a vote of a majority of the members present at a meeting at which there is a quorum.

75066. The director or his or her representatives shall be notified of, and may attend, each meeting of the commission and any committee meeting of the commission. However, the director or his or her representative or any other ex officio member is not entitled to attend an executive session of the commission called for the purpose of discussing potential or actual litigation involving either the department or the organization represented by the ex officio member, as the case may be.

75067. When a decision of the commission requires the concurrence of the director, he or she shall indicate his or her response, in writing, to the commission within 15 working days from notification of the decision.

75068. (a) No commissioner, including alternates, or a member of a committee established by the commission who is a nonmember of the commission, shall receive a salary.

(b) Each commissioner and alternate, except ex officio governmental members, and each member of a committee who is a nonmember of the commission, may receive a sum of not to exceed one hundred dollars ($100) per day, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees or on special assignment for the commission, as approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

75069. (a) All funds received by any person from the assessments levied under the authority of this chapter, or otherwise received by the commission, shall be deposited in the banks or other appropriate financial institutions designated by the commission and shall be disbursed by order of the commission through the agent or agents that it designated for that purpose.

(b) The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than fifty

thousand dollars ($50,000).

75070. (a) The state shall not be liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission.

(b) No member of the commission or alternate member, or any employee or agent thereof, is personally liable on the contracts of the commission or responsible individually in any way to any producer, any handler, or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime.

(c) The commission shall accept full responsibility to defend any member of the commission or alternate member, or any employee or agent thereof, against any such claim, except for individual acts of dishonesty or crime.

(d) No commissioner or alternate member shall be held responsible individually for any act or omission of any other member of the commission. The liability of the commissioners are several and not joint, and no commissioner is liable for the default of any other commissioner.

Article 4. Powers and Duties of the Commission

75081. The powers and duties of the commission, subject to Sections 75054 and 75055, shall include, but are not limited to, all of the powers and duties specified in this article.

75082. The commission shall adopt and, from time to time, alter, rescind, modify, and amend in a manner prescribed by the commission, all proper and necessary bylaws, rules and regulations, and orders for carrying out this chapter, including rules for appeals from any bylaw, rule and regulation, or order of the commission.

75083. The commission shall administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper or advisable effectuation of the purposes of this chapter.

75084. The commission shall appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers that it deems necessary.

The officers have the powers and duties delegated to them by the commission.

75085. (a) The commission shall employ a manager to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, that are necessary to carry out this chapter.

(b) In lieu of an individual as manager, the commission may contract with any private entity or state agency to perform, under the control of the commission, the functions specified in subdivision (a).

(c) If the manager, private entity, or state agency engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager, private entity, or state agency, as the case may be.

75086. The commission shall fix the compensation for all employees of the commission.

75087. The commission may appoint committees which may be composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

75088. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments for that year, that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

75089. (a) The commission shall keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts are subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers, copies of which shall also be submitted to the Legislature and the department.

(b) In addition, the director may, as he or she determines it to be necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

75090. The commission shall promote the sale of eggs and egg products by advertising and other promotional means, including cost-sharing advertising, to maintain and expand present markets and create new and larger intrastate, interstate, and foreign markets for eggs and egg products, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of eggs and egg products.

75091. The commission shall educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling eggs and egg products, to make market surveys and analyses, and to present facts to, and negotiate with, private and public agencies on matters which affect the marketing of eggs and egg products.

75092. The commission may enter into contracts to render services in formulating and conducting plans, programs, and any other contracts and agreements that the commission decides are necessary to carry out the activities authorized under this chapter.

75093. The commission may conduct, and contract with others to conduct, marketing research, including the study, analysis, dissemination, and accumulation of information obtained from the

research or from other sources regarding the marketing and distribution of eggs and egg products. In connection with the research, the commission is authorized to accept contributions of, or to match, private, state, or federal funds that may be available for these purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting this research.

75094. The commission may publish and distribute, without charge, bulletins or other communications for dissemination of information relating to commission activities and other related matters to producers and handlers.

75095. Pursuant to Section 75131, the commission shall establish an assessment rate to defray operating costs of the commission.

75096. (a) The commission shall prepare an annual budget according to generally accepted accounting practices.

(b) Except for disbursements to pay the compensation of the employees of the commission, no disbursement of funds shall be made unless the director concurs in the budget.

75097. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized under this chapter, including advertising, promotion, and marketing research.

75098. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for criminal violation of this chapter.

Article 5. Implementation and Voting Procedures

75111. (a) Within 90 days after the effective date of this chapter, the director shall establish a list of handlers subject to the provisions of this chapter and who are otherwise eligible to vote on implementation of this chapter. In establishing this list, the director may require handlers, county agricultural commissioners, and others to submit the name and mailing address of, and the volume, if known, handled by each handler. The request for this information shall be in writing. The information required by the director shall be filed within 30 days following receipt of the written notice.

(b) Any handler, whose name does not appear upon the director's list of handlers affected, may have his or her name included on the list by filing with the director a signed statement identifying himself or herself as a handler. Failure to be on this list does not exempt the handler from paying assessments under this chapter.

(c) Additionally, the director may use other sources of information necessary to secure that information to establish the list.

75112. This chapter, except as necessary to conduct an implementation referendum, does not become operative until the director finds in a referendum conducted by him or her, or a person designated by the director, that at least 40 percent of the total number of handlers from the list established by the director pursuant

to Section 75111, participated, and that he or she finds either one of the following:

(a) Sixty-five percent or more of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting marketed a majority of the volume of eggs and egg products in the preceding season by all of the handlers who voted in the referendum.

(b) A majority of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting marketed 65 percent or more of the volume of eggs and egg products in the preceding season by all of the handlers who voted in the referendum.

75113. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days or more than 60 days in duration, and may prescribe additional procedures as may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period. However, the total referendum period may not exceed 60 days.

75114. Nonreceipt of a ballot does not invalidate a referendum.

75115. If the director finds that a favorable vote has been given as provided in Section 75112, he or she shall certify and give notice of the favorable vote, and that this chapter is operative, to all handlers whose names and addresses are on the list of the director.

75116. If the director finds that a favorable vote has not been given as provided in Section 75112, he or she shall so certify and declare this chapter to be inoperative.

75117. (a) Upon certification of the commission, as provided in Section 75115, the director shall, by mail ballot or by calling a meeting of all handlers, conduct the nomination and election of handlers to the commission.

(b) Handlers shall be given written notice of the meeting at least 15 days prior to the meeting date. Any handler doing business in more than one district shall designate in a manner prescribed by the commission, prior to any election, the district in which he or she will vote.

75118. Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to the nomination and election procedures established by the commission with the concurrence of the director.

75119. (a) Prior to the implementation referendum conducted by the director pursuant to Section 75112, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray the expenses in creating the commission, including, but not limited to, preparing the necessary lists of handlers and conducting the implementation referendum.

(b) Any funds left after paying those expenses shall be returned to the proponents of the commission who deposited the funds with the director.

75120. Upon creation of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director which were used in creating the

commission, including, but not limited to, preparing the necessary lists of handlers and conducting the implementation referendum.

Article 6. Assessments and Records

75131. The assessment on eggs and egg products shall be established by the commission, with the approval of no less than five handler members, prior to the beginning of each marketing season and shall not exceed one cent ($0.01) per dozen for shell eggs, or the equivalent thereof, as determined by the commission, for egg products.

75132. This chapter does not apply to any handler who handles no more than 500 cases of eggs per week, or the equivalent thereof, and to secondary handlers. Direct sales to customers in less than one case lots shall not be used in computing the number of cases handled per week. However, the handler shall file an affidavit with the commission stating the basis for exemption from this chapter. The commission shall then determine whether the affidavit should be approved.

75133. Every handler shall keep a complete and accurate record of all eggs and egg products handled by him or her with the name of the handler whose eggs and egg products were handled. These records shall be in the form, and contain the information, as prescribed by the commission. The records shall be kept by the handler for a period of five years and shall be submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

75134. (a) All proprietary information obtained by the commission or the director from handlers is confidential and shall not be disclosed except when required in a judicial proceeding involving this chapter.

(b) Information on volume shipments, product value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other information which the commission requires that gives only totals, but excludes individual handler information, may be disclosed by the commission.

75135. Assessments shall be levied upon the handler. The handler of eggs and egg products being assessed shall be a trustee of the assessment funds until they are paid to the commission at the time and in the manner prescribed by the commission.

75136. Every handler is personally liable for the payment of the assessments. Any handler who fails to file a return as prescribed by the commission or pay any assessment within the time required by the commission, shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 2 percent interest per month on the unpaid balance.

Article 7. Actions and Penalties

75151. It is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding five hundred dollars ($500), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the handling of eggs or egg products or in the wholesale or retail trade of the handling of eggs or egg products, fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom eggs or egg products have been received and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under this chapter.

75152. (a) The commission shall establish procedures for the purpose of addressing any claims made against the commission or any of its individual members and alternates, and for the purpose of according individuals, including members and alternates, aggrieved by its actions or determinations an informal hearing before the commission or before a committee of the commission designated for that purpose.

(b) Appeals from decisions of the commission may be made to the director. The determination of the director is subject to judicial review upon petition filed with the appropriate superior court.

75153. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, with respect to this chapter and the rules and regulations adopted under this chapter.

(b) Except in a proceeding to determine whether the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, upon a favorable verdict for the commission, the commission is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs.

(c) Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

75154. Any action for any penalty or other remedy which is prescribed under this chapter shall be commenced within two years from the date of the alleged violation.

75155. It is not necessary for the commission to allege or prove that an adequate remedy at law does not exist in any action brought under this chapter.

75156. This chapter shall be liberally construed. If any section, clause, or part of this chapter is for any reason held to be unconstitutional or invalid as applied to any person or as applied

under certain circumstances, that decision shall not affect the remaining portions of this chapter or the application of this chapter to any other persons or under any other circumstance.

Article 8. Continuation or Suspension and Termination

75171. (a) Between January 1, 1989, and December 31, 1989, the commission shall conduct a referendum among handlers in the manner prescribed in Section 75112 to determine whether the operation of this chapter shall be reapproved and continued in effect.

(b) If the director finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain operative. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the marketing season ending December 31, 1989. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 75125.

(c) No bond or security is required for the referendum.

75172. Following a favorable referendum conducted prior to December 31, 1989, a referendum shall be conducted by the commission every fifth year thereafter between January 1st and December 31st, following procedures provided in this article, unless a referendum is conducted as the result of a petition filed pursuant to Section 75173. In that case, the referendum shall be every fifth year following the industry-petitioned referendum.

75173. (a) Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended. However, the suspension shall not become effective until the expiration of the current marketing season.

(b) The director shall, upon receipt of this recommendation, or may, after a public hearing to review a petition filed with him or her requesting the suspension, signed by 20 percent of the handlers by number who handled not less than 20 percent of the volume in the immediately preceding marketing season, conduct a referendum among the handlers to determine if the operation of the commission shall be suspended.

(c) The director shall establish a referendum period, which shall not be less than 10 or more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period.

(d) If at least 40 percent of the total number of handlers from the list established by the director participated in the referendum, the director shall continue the operation of this chapter, if he or she finds either one of the following:

(1) Sixty-five percent or more of the handlers who voted in the

referendum voted in favor of continuation, and the handlers so voting marketed a majority or more of the volume of eggs and egg products marketed in the preceding marketing season by all of the handlers who voted in the referendum.

(2) A majority of the handlers who voted in the referendum voted in favor of continuation, and the handlers so voting marketed 65 percent or more of the volume of eggs and egg products marketed in the preceding season by all of the handlers who voted in the referendum.

75174. Prior to any referendum resulting from a petition filed in accordance with Section 75173, the petitioners shall deposit with the director an amount that the director deems necessary to defray the expenses of preparing the necessary lists and information and conducting the referendum. Any funds not used shall be returned to the petitioners who deposited the funds with the director.

75175. (a) After the effective date of suspension of the operation of this chapter and of the commission, the operations of the commission shall be concluded and any and all remaining funds held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating the operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing season.

(b) However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of a pro rata refund to these persons, any such funds remaining and any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate state authorized eggs or egg products program. If no such program exists, the funds shall be paid into a federally authorized eggs or egg products program. If no such program exists, the funds shall be paid into the State Treasury as unclaimed trust money.

75176. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all handlers affected by the suspension whose names and addresses are on file.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 532

An act relating to state higher education employer-employee relations, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. It is the intent of the Legislature, in enacting this act, to recognize that the Trustees of the California State University and the State Employees' Trades Council have completed the impasse procedure and have arrived at a memorandum of understanding for employees in Unit 6 which has been ratified by the Trustees of the California State University and the employees of Unit 6.

There is hereby appropriated from the amount which reverted to the General Fund from Item 9800-001-001 of the Budget Act of 1982, notwithstanding Provision 3 of that item, the amount necessary to provide employees in Unit 6, for the period from July 1, 1982, to June 30, 1983, inclusive, with retroactive adjustment of Unit 6 employee contributions to the Public Employees' Retirement System up to a maximum reduction of fifty dollars ($50) per month, and a retroactive increase of the state share for Unit 6 employee health benefits up to the maximum offered to the California State University employees through the Public Employees' Retirement System, during the period from July 1, 1982, to June 30, 1983, inclusive.

It is the intent of the Legislature that nothing herein shall be construed to set a precedent allowing authorized representatives of employee organizations to postpone the signing of memoranda of understanding reached pursuant to collective bargaining past any deadline duly established pursuant to Section 3572 of the Government Code and the Budget Act. This act is intended only as recognition of possible mitigating circumstances associated with the fact that this was the first year the California State University was subject to collective bargaining. Therefore, since these circumstances cannot be repeated in future years, it is the intent of the Legislature not to repeat this type of retroactive adjustment after the enactment of the Budget Act.

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 provide the employee benefits authorized by this act during the 1982–83 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 533

An act to amend an 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 hereof, and repealing all acts and parts of acts inconsistent herewith" approved by electors November 7, 1922, by amending Sections 5 and 12 thereof, relating to chiropractic, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 5 of the act cited in the title is amended to read:

Sec. 5. License to Practice: Fee: Educational Requirements. It shall be unlawful for any person to practice chiropractic in this state without a license so to do. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, upon such form and in such manner as may be provided by the board. Proof of graduation from an approved chiropractic school or college, as defined in Section 4, must reach the board 15 days prior to any meeting thereof. Each application must be accompanied by a licensee fee of not more than one hundred dollars ($100), as determined by the board. Except in the cases herein otherwise prescribed, each applicant shall present to the board at the time of making such application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state is as follows, except as herein otherwise provided:

Group 1	
Anatomy, including embryology and histology	14%
Group 2	
Physiology	6%
Group 3	
Biochemistry and clinical nutrition	6%
Group 4	
Pathology and bacteriology	10%
Group 5	
Public health, hygiene and sanitation	3%
Group 6	

Diagnosis, dermatology, syphilology and geriatrics, and radiological technology, safety, and interpretation	18%
Group 7	
Obstetrics and gynecology and pediatrics	3%
Group 8	
Principles and practice of chiropractic, physical therapy, psychiatry, and office procedure	25%
Total	85%
Electives	15%

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to this section submitted to the electors by the 1977–1978 Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by said amendments.

SEC. 2. Section 12 of the act cited in the title is amended to read:

Sec. 12. Each person practicing chiropractic within this state shall, on or before the first day of January of each year, after a license is issued to him as herein provided, pay to said Board of Chiropractic Examiners a renewal fee of not more than one hundred fifty dollars ($150) as determined by the board. The secretary shall, on or before November 1st of each year, mail to all licensed chiropractors in this state a notice that the renewal fee will be due on or before the first day of January next following. Nothing in this act shall be construed to require the receipts to be recorded in like manner as original licenses. The failure, neglect or refusal of any person holding a license or certificate to practice under this act in the State of California to pay said annual fee during the time his or her license remains in force shall, after a period of 60 days from the first day of January each year, ipso facto, work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor and the payment to the said board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed except that such licentiate who fails, refuses or neglects to pay such annual tax within a period of 60 days after the first day of January of each year shall not be required to submit to an examination for the reissuance of such certificate.

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

In order that the Board of Chiropractic Examiners may apply the increases in fees authorized by this act to applicants for examinations to be held in 1983 and to licensees of the Chiropractic Act who are renewing such licenses in 1983, it is necessary that this act go into immediate effect.

CHAPTER 534

An act to amend Section 31459 of, and to add Sections 31595.9 and 53601.1 to, the Government Code, and to add Section 2607.1 to, the Revenue and Taxation Code, relating to local government.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 31459 of the Government Code is amended to read:

31459. (a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31454, 31454.5, 31472, 31528, 31591, and the first paragraph of Section 31592.2, Sections 31592.3, 31594, 31595, 31595.1, 31595.3, 31595.4, 31595.5, 31595.6, 31595.9, 31596, 31596.1, 31603, 31604, 31605, 31607, and 31625, "board" means board of investment.

(2) Sections 31522, 31523, 31524, 31525, 31529, 31680, and 31680.1 apply to both the board of retirement and board of investment, and "board" means both "board of retirement" and "board of investment."

(b) In Article 17 (commencing with Section 31880) of this chapter, "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

SEC. 2. Section 31595.9 is added to the Government Code, to read:

31595.9. Notwithstanding the provisions of Section 31595, in addition to other investments authorized by this article, funds received by the county treasurer not required for current disbursements may be invested in repurchase agreements or reverse repurchase agreements of any securities authorized by this article.

For purposes of this section, "repurchase agreement" means a purchase of securities by the board pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount.

For purposes of this section, "reverse repurchase agreement" means a sale of securities by the board pursuant to an agreement by which the board will repurchase the securities on or before a specified date and for a specified amount.

SEC. 3. Section 53601.1 is added to the Government Code, to read:

53601.1. The authority of a local agency to invest funds pursuant to Section 53601 includes, in addition thereto, authority to invest in financial futures or financial option contracts in any of the investment categories enumerated in that section.

SEC. 4. Section 2607.1 is added to the Revenue and Taxation Code, to read:

2607.1. Upon authorization of the board of supervisors, the tax collector shall accept payment of the second installment of the tax on real property at a discounted amount, as established annually by the board, if payment is made on or before the date the first installment is due.

CHAPTER 535

An act to amend Section 65600 of the Food and Agricultural Code, relating to table grapes, and making an appropriation therefor.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 65600 of the Food and Agricultural Code is amended to read:

65600. There is hereby levied and imposed upon all fresh grapes shipped during each marketing season an assessment as fixed by the commission at that amount determined by the commission as reasonably necessary to pay all obligations incurred or to be incurred in accordance with this chapter and as reasonably necessary to carry out the objects and purposes of this chapter. However, during any marketing season the assessment shall not exceed $0.006522 per pound ($0.6522 per 100 pounds), computed on net weight when shipped, whether in bulk or loose in boxes or in any other container or packed in any style package.

All shipments of 150 pounds or less of fresh grapes sold or shipped by a producer direct to the consumer are exempt from the assessments.

CHAPTER 536

An act to amend Sections 44252, 44252.5, 44830, and 45361.5 of, and to add Sections 44252.6 and 44252.7 to, the Education Code, relating to teacher credentialing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 44252 of the Education Code is amended to read:

44252. (a) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(b) Commencing on February 1, 1983, the Commission on Teacher Credentialing shall not issue initially any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language as provided in Section 44252.5. The commission shall exempt from the basic skills proficiency test requirement any of the following persons:

(1) A person credentialed solely for the purpose of teaching adults in an apprenticeship program.

(2) An applicant for an adult education designated subject credential for other than an academic subject.

(3) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination which has been developed and administered by the school district offering that person employment. School districts administering a basic skills proficiency examination under this paragraph shall comply with the requirements of subdivision (h) of Section 44830. Such an applicant shall be granted a nonrenewable emergency credential, valid for not longer than one year, pending fulfillment of the basic skills proficiency requirement pursuant to Section 44261.5. The commission shall report to the Legislature no later than January 1, 1984, on the number of teachers receiving emergency credentials without fulfilling the basic skills proficiency requirement, the districts in which these teachers are employed, the number of teachers granted clear credentials after the expiration of an emergency credential granted under these conditions, and a comparison of success rate of these teachers on the basic skills test with the success rate of the general pool of credential applicants. This exemption shall remain in effect no later than June 30, 1984.

(4) An applicant for a child care center permit or a permit authorizing service in a development center for the handicapped, so long as the holder of the permit is not required to have a baccalaureate degree.

(5) The holder of a credential, permit, or certificate to teach, other than an emergency credential, who seeks an additional authorization to teach.

(6) An applicant for a credential to provide service in the health profession.

(c) By December 31, 1982, the Superintendent of Public Instruction shall adopt an appropriate state test to measure proficiency in these basic skills. In adopting the test, the

superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The board shall also include representatives of local school boards, school administrators, parents, and postsecondary institutions.

The superintendent shall adopt any normed test that the superintendent determines will sufficiently test basic skills for purposes of this section.

The superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to insure the effective implementation of this provision.

(d) The commission shall compile data regarding the rate of passing the state basic skills proficiency test by persons who have been trained in various institutions of higher education. The data shall be available to members of the public, including to persons who intend to enroll in teacher education programs.

SEC. 2. Section 44252.5 of the Education Code is amended to read:

44252.5. (a) The commission shall administer the state basic skills proficiency test pursuant to Sections 44227, 44252, and 44830 in accordance with rules and regulations adopted by the commission. The adopted rules and regulations shall be promulgated by the commission before January 1, 1983, and shall be exempt from the requirements of Section 44232. A fee shall be charged to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test. The commission shall establish the amount of this fee. However, the fee shall not exceed thirty dollars ($30) in the 1982–83 fiscal year, thirty-five dollars ($35) in the 1983–84 fiscal year, and forty dollars ($40) in subsequent fiscal years.

(b) Any individual who passes the state basic skills proficiency test, as adopted by the Superintendent of Public Instruction, shall be considered proficient in the skills of reading, writing, and mathematics, and shall not be required to be retested by this test for purposes of meeting the proficiency requirements of Sections 44227, 44252, and 44830.

(c) Any individual who passes one or more components of the state basic skills proficiency test in the subjects of basic reading, writing, or mathematics, shall be deemed to have demonstrated his or her proficiency in these subject areas and shall not be required to be retested in these subjects during subsequent test administrations.

SEC. 2.5. Section 44252.6 is added to the Education Code, to read:

44252.6. Notwithstanding Section 13340 of the Government Code, funds reimbursed to the State Department of Education by the Commission on Teacher Credentialing are hereby continuously appropriated and available for expenditure without regard to fiscal year upon the order of the Superintendent of Public Instruction for the purposes of paying costs incurred in the process of adopting the assessment instrument and overseeing the implementation of the

provisions relating to basic skills proficiency testing.

SEC. 2.7. Section 44252.7 is added to the Education Code, to read:

44252.7. (a) Commencing on September 1, 1984, no person employed to work in a child care development program under direct contract with the State Department of Education and subject to regulations set forth in Title 5 of the California Administrative Code shall receive compensation for work as a teacher unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills by doing one of the following:

(1) Passing a proficiency test developed by a school district pursuant to either Section 45361.5 or 51216.

(2) Having met the basic skills requirement of an associate degree at a community college as set forth by Section 51526 of Title 5 of the California Administrative Code pertaining to community colleges.

(3) Passing the California Basic Education Skills Test.

(4) Passing a field-based assessment approved by the Commission on Teacher Credentialing.

(b) If a child care and development program teacher employed prior to September 1, 1984, in such a program receiving public funds does not demonstrate proficiency in basic skills pursuant to this section, he or she shall be given two years to master these basic skills without loss or compensation, and shall be given additional opportunities to be reassessed. Failure to pass an assessment in basic skills during the two-year period shall be grounds for loss of compensation.

(c) Persons seeking compensation as a child care and development program teacher in such a program who have limited English-speaking ability may be granted an additional exemption to this requirement by the employing agency, for a period of up to one year, if the agency deems that the exemption is in the best interest of the children enrolled in the program. No person shall be exempted from these requirements for more than a total of three years.

(d) School districts receiving public funds to operate a child care and development program under direct contract with the State Department of Education and subject to regulations set forth in Title 5 of the California Administrative Code shall make available to persons seeking compensation for work as teachers in the program the test developed or administered pursuant to Section 45361.5 or 51216.

A school district may charge a fee to persons taking the test pursuant to the requirements of this section to fund the actual costs incurred by the district in giving the test.

(e) The State Department of Education shall make available an appropriate test meeting the requirements of this section to a person seeking compensation for work as a child care and development program teacher in such a center which is not administered by a school district. School districts shall assist the State Department of Education in fulfilling this requirement by making available to the department, upon request, the test developed or administered

pursuant to Section 45361.5.

(f) The State Department of Education may charge a fee to persons taking the test pursuant to the requirements of this section to fund the actual costs incurred by the department in giving the test.

SEC. 3. Section 44830 of the Education Code is amended to read:

44830. (a) A governing board of a school district shall employ for positions requiring certification qualifications, only persons who possess the qualifications therefor prescribed by law. It is contrary to the public policy of this state for any person or persons charged, by the governing boards, with the responsibility of recommending such persons for employment by the boards to refuse or to fail to do so for reasons of race, color, religious creed, sex, or national origin of the applicants for such employment.

(b) Commencing on February 1, 1983, no school district governing board shall initially hire on a permanent, temporary, or substitute basis a certificated person seeking employment in the capacity designated in his or her credential unless that person has demonstrated basic skills proficiency as provided in Section 44252.5 or unless the person is exempted from the requirement by subdivisions (c), (d), (e), (f), (g), (h), (i), (j), (k), (*l*), and (m).

(1) The governing board of a school district, with the authorization of the Commission on Teacher Credentialing, may administer the basic skills proficiency test required under the provisions of Sections 44252 and 44252.5.

(2) The superintendent, in conjunction with the commission and local governing boards, shall take steps necessary to ensure the effective implementation of this subdivision.

It is the intent of the Legislature that in effectively implementing the provisions of this subdivision, school district governing boards shall direct superintendents of schools to prepare for emergencies by developing a pool of qualified emergency substitute teachers. This preparation shall include public notice of the test requirements and of the dates and locations of administrations of the tests. District governing boards shall make special efforts to encourage individuals who are known to be qualified in other respects as substitutes to take the state basic skills proficiency test at its earliest administration.

(3) Demonstration of proficiency in reading, writing, and mathematics by any person pursuant to Section 44252 shall satisfy the requirements of this subdivision.

(c) A certificated person shall not be required to take the state basic skills proficiency test if he or she has been employed in a position requiring certification in any school district within 39 months prior to employment with the district.

(d) Nothing in this section shall require a person employed solely for purposes of teaching adults in an apprenticeship program, approved by the Apprenticeship Standards Division of the Department of Industrial Relations, to pass the state proficiency assessment instrument as a condition of employment.

(e) Nothing in this section shall require the holder of a child care

permit or a permit authorizing service in a development center for the handicapped to take the state basic skills proficiency test, so long as the holder of the permit is not required to have a baccalaureate degree.

(f) Nothing in this section shall require the holder of a credential issued by the commission who seeks an additional credential or authorization to teach, to take the state basic skills proficiency test.

(g) Nothing in this section shall require the holder of a credential to provide service in the health profession to take the state basic skills proficiency test, so long as that person does not teach in the public schools.

(h) If the basic skills proficiency test is not administered at the time of hiring, the holder of a vocational designated subject credential who has not already taken and passed the basic skills proficiency test may be hired on the condition that he or she will take the test at its next local administration.

(i) If the holder of a vocational designated subject credential does not pass a proficiency assessment in basic skills pursuant to this section, he or she shall be given one year in which to retake and pass the proficiency assessment in basic skills. If at the expiration of the one-year period he or she has not passed the proficiency assessment in basic skills, he or she shall be subject to dismissal under procedures established in Article 3 (commencing with Section 44930) of Chapter 4.

(j) Nothing in this section shall be construed as requiring the holder of an adult education designated subject credential for other than academic subjects, who is employed in an instructional setting for 20 hours or less per week, to pass the state proficiency assessment as a condition of employment.

(k) Nothing in this section shall be construed to require certificated personnel employed under a foreign exchange program to take the state basic skills proficiency test. The maximum period of exemption under this subdivision shall be one year.

(*l*) A school district may hire a teacher credentialed in another state who has not taken the state basic skills test if, at a public meeting, the school district governing board certifies that no person who meets the credentialing requirements and who has satisfied the basic skills requirement specified in Section 44261.5 is available to fill a position deemed necessary to the normal operation of the school curriculum. The board shall include in the certification a statement of the need to fill the position and the reasons for the need, proof of its attempts to recruit qualified teachers in California, and a statement attesting to the failure of those attempts. Such certification shall be submitted to the commission with the name of the teacher the board intends to employ pursuant to this section. The commission shall issue an emergency credential pursuant to paragraph 3 of subdivision (b) of Section 44252, upon receipt of this documentation.

(m) Notwithstanding any other provision of law, a school district

may hire a certificated teacher who has not taken the state basic skills proficiency test if that person has not yet been afforded the opportunity to take the test. The person shall then take the test at the earliest opportunity and may remain employed by the district pending the receipt of his or her test results.

(n) The commission shall require that each applicant for a credential issued by the commission, unless exempted by the provisions of Section 44252, take the state basic skills proficiency test for diagnostic purposes. Each applicant shall take the test no later than the deadline for the submission of his or her application for entrance to the credential program. Test results shall be forwarded to each California postsecondary institution to which the applicant has applied.

SEC. 4. Section 45361.5 of the Education Code is amended to read:

45361.5. Commencing on March 1, 1982, no person shall be initially assigned to assist in instruction for work as an aide for instructional purposes in kindergarten and grades 1 through 12 unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills up to or exceeding that required by the employing district for high school seniors under Section 51216 if the employing district educates high school students. If the employing district is an elementary school district, the aide shall demonstrate proficiency in basic reading, writing, and mathematics skills up to or exceeding that required of high school seniors under Section 51216 in the high school district which includes all or the largest portion of the elementary school district.

As used in this section, "initially assigned" means any assignment, including substitute, temporary, probationary, or permanent employment, to assist in instruction as an aide for instructional purposes.

A school district may charge a fee to aides, including prospective aides, taking the district proficiency test pursuant to the requirements of this section to fund the costs incurred by the district in giving the test. This fee may be subject to negotiation between the district and the exclusive representative of instructional aides, but in no event shall the fee exceed seven dollars ($7).

The school district governing board, at a public meeting, may grant an exemption from this requirement to any person, for a period of one year, if the person is to be assigned as a bilingual-crosscultural aide and the governing board determines that there is no other person available to serve in the same capacity. Upon or prior to the expiration of the one-year period, the bilingual-crosscultural aide shall be required to take and pass the basic skills test required by this section. A bilingual-crosscultural aide who has not demonstrated his or her basic skills proficiency through these means may not be compensated for work as a bilingual-crosscultural aide. A bilingual-crosscultural aide may only be granted one exemption from this requirement. The authority of district governing boards to grant

these exemptions shall cease on June 30, 1985.

An aide who passes a district proficiency test as required by this section who transfers to another district and is employed in the same capacity, shall be considered to have met the proficiency standards for purposes of this section unless the district to which he or she has transferred determines that the test taken by the aide is not comparable to the standards required by the employing district.

An aide who passes a district proficiency test, as required by this section, and who is reassigned to another school or program in the district and is employed in the same capacity, shall be considered to have met the state basic skills proficiency test requirement.

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 for the effective and timely implementation of the requirements for the state basic skills proficiency test at the earliest possible time, and to ensure that there will be a minimal disruption among educators and public school pupils, it is necessary that this act take effect immediately.

CHAPTER 537

An act to amend Sections 8285.5, 52302.3, 52520, and 78016 of the Education Code, to amend Section 14999.1 of the Government Code, to amend Sections 15001, 15010, 15011, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15036, 15040, 15041, 15042, 15043, 15044, 15045, 15046, 15050, 15051, 15052, 15053, 15055, 15056, 15057, 15058, 15063, 15070, 15071, 15072, 15073, 15080, 15081, 15082, and 15087 of, to amend the headings of Chapter 3 (commencing with Section 15020) and Chapter 5 (commencing with Section 15040) of Division 8 of, to add Chapter 1.5 (commencing with Section 15005) and Chapter 7.5 (commencing with Section 15075) to Division 8 of, to add Sections 15009, 15029.5, 15034.5, and 15037.3 to, and to repeal Sections 15032.5 and 15047 of, the Unemployment Insurance Code, and to amend Sections 12, 17, and 19 of Chapter 1329 of the Statutes of 1982, relating to economic development and job training, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 8285.5 of the Education Code is amended to read:

8285.5. (a) Notwithstanding any other provision of this chapter,

at such times as the Superintendent of Public Instruction proposes to expand child care and development services, he or she shall submit a written request to the local private industry council, established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, for each service delivery area wherein the proposed expansion is to occur.

(b) The written request shall describe the amount of additional funding to be allocated within the service delivery area and any other pertinent information the superintendent may deem useful and necessary.

(c) The Superintendent of Public Instruction and, where appropriate, the executive officer of the local community college district shall request information from each local private industry council, describing the unmet child care needs of persons eligible to participate in the council's job preparation and training services plan. The description can include the geographic distribution within the service delivery area of eligible participants, the number and ages of children needing care, the geographic distribution of job preparation and training sites, and the extent to which child care needs are currently being met. The superintendent shall review the findings and recommendations of each local council when implementing the actual expansion of child care services within the service delivery area.

(d) Nothing herein shall be construed to preclude the Superintendent of Public Instruction from contacting a local private industry council prior to the development of any expansion proposal in order to obtain the council's advice and recommendations relating to child care and development services needs occurring within the service delivery area.

(e) For the purposes of this section, the term "expansion of child care and development services" means an increase during a calendar year in a service delivery area's aggregate average daily enrollment of children receiving subsidized child care services due to new funds available for these services.

SEC. 2. Section 52302.3 of the Education Code is amended to read:

52302.3. (a) Every vocational course or program offered by a school district or community college district or districts or county superintendent or superintendents sponsoring a regional occupational center or program shall be reviewed every two years by the appropriate governing body to assure that each such course or program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any course or program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing

body shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local private industry council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each course or program commenced subsequent to the effective date of this section.

SEC. 3. Section 52520 of the Education Code is amended to read:

52520. (a) Every vocational or occupational training program for adults offered by any high school district or unified school district shall be reviewed every two years by the governing board to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 4. Section 78016 of the Education Code is amended to read:

78016. (a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 4.5. Section 14999.1 of the Government Code is amended to

read:

14999.1. The commission shall consist of 17 members appointed as follows:

Three Members of the Senate, appointed by the Senate Rules Committee.

Three Members of the Assembly, appointed by the Speaker of the Assembly.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that such participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this article, such Members of the Legislature shall constitute a joint investigating committee on the subject of this article and as such shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and Assembly.

Ten members appointed by the Governor after consultation with business, industry, and labor organizations, with no more than six members registered from the same political party. These 10 members shall include persons from the economic development fields of manufacturing, tourism, world trade and such other fields as may be appropriate. The terms of these 10 members shall be for four years. The terms of the members first appointed shall be as follows: four shall expire January 1, 1973; four January 1, 1974; and two January 1, 1975.

The Lieutenant Governor shall serve as chairman of the commission. The commission shall provide for the selection of a vice chairman who will be a registered member of a political party different from that of the chairman. The commission may select from its membership such other officers as it deems necessary. The chairman and the vice chairman will be ad hoc members of all committees. The Governor shall appoint, upon the nomination of the Lieutenant Governor, an executive secretary for the commission. That appointee shall serve at the pleasure of the Lieutenant Governor. The Lieutenant Governor shall appoint the staff of the commission. The staff shall be employees of the Lieutenant Governor's office.

SEC. 5. Section 15001 of the Unemployment Insurance Code is amended to read:

15001. It is the purpose of this division to establish a program of job preparation, training, and placement services which enable economically disadvantaged persons to participate fully in the mainstream of our economy and thereby promote the economic security of families they now head or will in the future head, and which carries out the objectives, purposes and provisions of the Aid to Families with Dependent Children (AFDC) program established pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code. To achieve these purposes it is the intent of the Legislature that a service system be

implemented which incorporates the following elements:

(a) Integration of benefits and services under the Aid to Families with Dependent Children program with employment services, including the following:

(1) Application and screening of eligible participants.

(2) Assessment of each participant's employment potential and training needs.

(3) Immediate job search assistance and imparting of self-help job search skills for employment in unsubsidized jobs.

(4) Placement in appropriate training programs for those participants not otherwise job ready.

(b) Integration of those state and federal job training programs now authorized by law and designed to serve persons eligible under this division.

(c) Overall program direction by the Employment Development Department, whose functions under this division shall include:

(1) Overall direction, under the guidance of the State Job Training Coordinating Council, of the statewide programs operated by service delivery areas under this division, including establishment of basic program standards consistent with the provisions of this division and the provisions of Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, review of service delivery area plans, allocation and distribution to service delivery areas of funds from the block grant established pursuant to Chapter 8 (commencing with Section 15080), and assessment of service delivery area performance based on standards that measure results rather than process.

(2) Administration, either directly or by contract with another entity, of these statewide programs in service delivery areas that request the state to assume this function.

(3) Administration of demonstration programs testing innovative approaches to assisting clients eligible under this division to find unsubsidized employment.

(4) Administration of special assistance programs to areas facing urgent employment and training needs that cross jurisdictional lines or that result from major plant closures, arrival and resettlement of a significant number of refugees, or comparable circumstances.

(d) Local administration and operation of the statewide programs under this division, in accordance with an approved service delivery area plan.

(e) Planning, design, and local oversight of the service delivery area's job preparation and training services system by local private industry councils established by chief elected officials, which councils shall ensure that the job preparation and training service plan responds appropriately to local economic conditions, local employment needs, and business and economic development strategies planned or being implemented within the area, as well as complies with the basic standards and provisions of this division.

(f) Streamlining of the funding for programs authorized under

this division, in accordance with the following principles:

(1) Consolidation into a single block grant, for distribution to the service delivery areas to carry out their approved plans, of:

(A) Those federal and state funds heretofore appropriated on a categorical basis for various programs authorized to provide job preparation, training, and placement services, which programs are integrated by this division into the locally operated statewide programs.

(B) Other funds that the federal government may make available or the Legislature may appropriate for the statewide programs.

(2) Retention by the Employment Development Department of the following funding sources:

(A) The service delivery area's share of block grant funds distributed under paragraph (1), to support provision of services to service delivery area residents eligible under this division, in those service delivery areas where the state assumes this function in accordance with paragraph (2) of subdivision (c).

(B) Federal and state funds received for the operation of demonstration and special assistance programs serving persons eligible under this division. When a demonstration program and its funding level become suitable for statewide institutionalization, local administrative responsibility for the program shall be assigned to the service delivery areas and its funding shall be moved to the block grant established under paragraph (1).

SEC. 6. Chapter 1.5 (commencing with Section 15005) is added to Division 8 of the Unemployment Insurance Code, to read:

CHAPTER 1.5. CITY AND COUNTY RELATIONSHIPS

15005. The designation of service delivery areas shall be consistent with the requirements of the federal Job Training Partnership Act. Units of general local government with populations of 200,000 or more and consortia of contiguous units of local government with an aggregate population of 200,000 or more which serve a substantial part of a labor market area shall be designated service delivery areas, if they so request. Furthermore, consideration shall be given to service delivery area requests from any unit of general local government, with a population level below 200,000, which served as a prime sponsor under the Comprehensive Employment and Training Act.

15006. The Legislature recognizes that counties are the units of local government designated to administer public assistance programs in California. It is the intent of the Legislature that access to public assistance benefits be integrated with access to employment and training services provided pursuant to this division. In the event that another unit of general government within a county is also designated as a service delivery area pursuant to the federal Job Training Partnership Act, the Job Preparation and Training Plan for that service delivery area shall describe the agreed

upon methods and procedures whereby employment and training services to public assistance recipients are tied to and a part of the system of integrated access to Public Assistance and Employment and Training Services within the county. Counties shall provide full cooperation to those entities within the county administering a service delivery area to assist in the establishment of appropriate linkages.

15007. The director, with the approval of the state council, shall allocate to units of general government designated as a service delivery area, such funds as may be determined prudent and necessary from funds available in the Consolidated Work Program Fund in excess of those funds provided by the federal Job Training Partnership Act. Funds allocated from the Consolidated Work Program Fund shall be used in accordance with the enabling statutes of those programs in the fund.

SEC. 7. Section 15009 is added to the Unemployment Insurance Code, to read:

15009. Procedures and criteria for determining the eligibility of persons provided services under this division with federal funds received through the federal Job Training Partnership Act shall be in accordance with the provisions of that act.

SEC. 8. Section 15010 of the Unemployment Insurance Code is amended to read:

15010. Persons eligible to receive services provided under the provisions of this division with funds from the Consolidated Work Program Fund in excess of those federal funds received through the federal Job Training Partnership Act shall be limited to the following:

(a) Members of families which are receiving, or which would be eligible to receive, in the absence of services provided under this division, benefits provided by the Aid to Families with Dependent Children program pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) Persons who are receiving or who, in the absence of services provided under this division, would be eligible to receive food stamps pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) Persons who are receiving or would, in the absence of services provided under this division, qualify in the county of application for benefits under that county's general assistance program pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

SEC. 9. Section 15011 of Unemployment Insurance Code is amended to read:

15011. (a) In the event that available funding is not sufficient to provide the full range of services authorized under this division to all those meeting the eligibility standards specified in Section 15010, the department shall establish general criteria, subject to the approval of the state council, to be used by service delivery areas in determining both of the following:

(1) The priority order among eligible persons for access to services.

(2) The priority order among the types of services to be provided.

These criteria shall provide service delivery areas with sufficient flexibility in order that local job preparation and training services plans can respond to the needs of eligible groups for programs developed in response to local conditions.

(b) In establishing priority criteria, the department may establish proportions of funding that may be used for groups of eligible participants and for types of services, or the department may establish proportions of eligible groups to be served, or both.

(c) To the extent feasible, the priority order of eligible persons shall be in accordance with the order of eligibility set forth in Section 15010. In establishing priorities for services, special priority emphasis shall be given to those parents who are the sole heads of families with minor children.

SEC. 10. The heading of Chapter 3 (commencing with Section 15020) of Division 8 of the Unemployment Insurance Code is amended to read:

CHAPTER 3. SERVICE DELIVERY AREA RESPONSIBILITIES

SEC. 11. Section 15020 of the Unemployment Insurance Code is amended to read:

15020. There shall be established in each service delivery area, subject to the direction of the chief elected officials acting in accordance with the provisions of this division, a system for providing job preparation, training and placement services to persons eligible under the provisions of this division. Elements of services to be provided by the system shall include, but are not necessarily limited to:

(a) Receiving applications for services and screening the applicants in accordance with priorities and services provided pursuant to a job preparation and training services plan.

(b) Assessment of an eligible participant's employment potential and training needs.

(c) Immediate job search assistance which provides applicants and recipients of public assistance with self-help job search skills and other job finding services which promote quick entry into unsubsidized jobs, with special emphasis on nontraditional jobs in the private sector for women.

(d) Basic and remedial education for those participants who have not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(e) Job training services for those participants who without such training would be unable to obtain unsubsidized employment within a reasonable period of time.

(f) Job placement services for participants completing training programs.

(g) Specialized employment placement assistance, where appropriate, for individuals whose access to services is limited due to physical disabilities but who are otherwise eligible for services under the provisions of Chapter 2 (commencing with Section 15010).

SEC. 12. Section 15021 of the Unemployment Insurance Code is amended to read:

15021. The private industry council and appropriate local elected officials in each service delivery area shall determine the entity to administer the job preparation and training services plan and the organization and structure necessary to administer the system of services provided pursuant to Section 15020. The administrative structure, however, shall provide for the integration of the application of and access to employment and training services with the local organizational structure for administering benefits under the Aid to Families with Dependent Children program and other public assistance programs. In addition, the private industry council and appropriate local elected officials in each service delivery area shall, to the extent feasible, promote the integration of employment and training resources available within the service delivery area to eligible participants into a comprehensive employment services system.

SEC. 13. Section 15022 of the Unemployment Insurance Code is amended to read:

15022. All programs, services, policies, and procedures established in the service delivery area pursuant to the requirements of this division, including the expenditures of all public funds, shall be in accordance with the job preparation and training services plan, prepared in accordance with the provisions of Chapter 5 (commencing with Section 15040) and as approved by the department.

SEC. 14. Section 15023 of the Unemployment Insurance Code is amended to read:

15023. In its administration and management of the services system established under this chapter, the appropriate local elected officials in each service delivery area shall act in a manner which promotes and supports the powers, duties, and functions of the local private industry council as set forth in Chapter 4 (commencing with Section 15030).

SEC. 15. Section 15024 of the Unemployment Insurance Code is amended to read:

15024. The entity administering the job preparation and training services plan in each service delivery area may contract with state departments or public and private agencies or organizations for the provision of services to persons eligible under this division who need or would benefit from such services. In selecting facilities for job training, institutional training or work experience programs under this division, it shall be determined whether existing private and public community facilities in the area are being utilized to the fullest extent before establishing any new facilities at public expense

and this determination shall be documented within the plan prepared pursuant to Section 15043. In order to assure that the maximum utilization of existing facilities is accomplished where appropriate, the administering entity in each service delivery area shall notify all the facilities in the area prior to establishing new job training, institutional training, and work experience programs.

SEC. 16. Section 15025 of the Unemployment Insurance Code is amended to read:

15025. Where it is determined to be impractical because of population size or geographical remoteness for an individual unit of general local government to establish a services system pursuant to this division, or where governmental units share common interests, needs, and resources, those governmental units are hereby authorized to establish through a joint powers agreement a consortium empowered to fulfill the requirements of this division. The consortium shall conform to the provisions of this division. The department shall give its full cooperation and assistance in assuring the effective, efficient formulation and operations of the consortium.

SEC. 17. Section 15026 of the Unemployment Insurance Code is amended to read:

15026. (a) In order to assure the proper and efficient management of the job preparation and training services system, management information and fiscal accounting systems as are necessary to meet federal, state, and local information, auditing, and control requirements shall be established and maintained. Reports shall be provided to the department containing such information as the department, with the approval of the state council, requires. The reporting requirements shall be determined with the assistance of local elected officials and private industry councils.

(b) The information systems established pursuant to this section shall, where appropriate, complement the centralized delivery system authorized in Chapter 4.1 (commencing with Section 10815) of Part 2 of Division 9 of the Welfare and Institutions Code.

SEC. 18. Section 15027 of the Unemployment Insurance Code is amended to read:

15027. To the extent feasible and to the extent that employment and training services are available, employment and training services shall be provided to Work Incentive Program registrants who have been assessed and appraised by the Work Incentive Program as requiring employment and training services which are not available to the registrants under the Work Incentive Program or the Employment Preparation Program.

SEC. 19. Section 15028 of the Unemployment Insurance Code is amended to read:

15028. If the director finds that employment and training services in a service delivery area are not being administered in compliance with the provisions of this division, he or she may notify the state council and request a hearing concerning whether funds should be withheld from the service delivery area. The director shall

notify the appropriate local elected officials and private industry council in the subject service delivery area of any such request. The state council shall set the matter for hearing within 60 days after the receipt of the request by the director, and shall recommend to the Governor what action should be taken, if any, within 30 days after the conclusion of the hearing.

If the state council recommends that funding should be withheld from the service delivery area it shall also recommend an entity or entities to provide employment and training services within the service delivery area until the appropriate local elected officials and private industry council offer reasonable assurances of their intention and ability to comply with the requirements of this division. If the director's findings involve fraud or misappropriation of funds, he or she may immediately withhold funds from the subject service delivery area pending the hearing by the state council and decision by the Governor.

SEC. 20. Section 15029 of the Unemployment Insurance Code is amended to read:

15029. The director shall investigate and shall make a formal declaration of findings regarding a complaint filed with the director by a recipient organization or a number of participants that present evidence of failure to comply with provisions of this division within a service delivery area. This declaration shall be made within 60 days of the complaint being filed.

SEC. 20.5. Section 15029.5 is added to the Unemployment Insurance Code, to read:

15029.5. (a) The director, upon review of the State Job Training Coordinating Council, may request from the Governor an appeal to the United States Secretary of Labor for a reduction in the amount of a disallowed cost or a determination that no disallowed cost should be returned to the state by a service delivery area or by a service provider if it is found that an extenuating circumstance exists and that a good faith effort was made to properly administer programs. In the event the United States Secretary of Labor refuses to grant the appeal, the service delivery area shall be liable for disallowed costs which occur as a result of failure by the service delivery area to conform to federal or state laws or regulations, or both. The State Job Training Coordinating Council shall develop regulations which define extenuating circumstances and good faith effort.

(1) The regulatory definition of "extenuating circumstances" shall include, but not be limited to, all of the following:

(A) Strikes and disasters.

(B) Errors by state staff in policy interpretation.

(C) Sudden and significant workload changes resulting from changes in law or regulations, or from significant and unpredictable participant growth.

(D) Failure of a governmental agency outside the control of the service delivery area governing body or of the service provider to complete an agreed-upon activity.

(2) The regulatory definition of "good faith effort" shall be based upon factors including, but not limited to, all of the following:

(A) Demonstrated commitment to the elimination of errors, such as established priorities and goals, accountability for performance, and monitoring of progress.

(B) Consideration of clerical errors neither grossly negligent nor criminal.

(C) Sufficient quality operational systems designed to eliminate errors, such as use of computer clearance and review processes.

(D) Implementation of effective systems and procedures, such as error-prone profiles and corrective action committees for the statistical and program analysis of quality control and related data.

(b) Nothing in the section shall be construed to limit state authority to pass on federal fiscal sanctions to the service delivery areas on service providers, provided, however, that the portion of a federal sanction, due to differences between state and federal regulation, or due to failure by a governmental agency outside the control of the service delivery area's governing body on the service provider confirmed by the state and not apportionable to the agency, shall be apportioned to the state.

(c) The State Job Training Coordinating Council shall report to the Legislature, no later than 180 days following the effective date of this section, a recommended formula, developed with the assistance of the department and the private industry councils, which apportions fiscal responsibility for state and federal quality control sanctions between the state and the service delivery areas.

SEC. 21. Section 15030 of the Unemployment Insurance Code is amended to read:

15030. In order to assure a more cooperative relationship between government and the private sector, a relationship that promotes a system of job preparation and training services most responsive to the needs and interests of the private sector and the participants, there shall be a private industry council established in each service delivery area.

SEC. 22. Section 15031 of the Unemployment Insurance Code is amended to read:

15031. (a) The service delivery area's private industry council shall be appointed by the chief elected officials of the local government unit or units involved, and shall be of such size as the unit or units deem appropriate for the purposes of this division, except that service delivery areas with a total population in excess of 2,500,000 persons shall have a minimum of 29 members.

(1) The chairperson and at least one-half of the remaining members shall represent both large and small businesses in the private sector, who shall be owners of business concerns, chief executives or chief operating officers of business concerns who have or have had substantial policy and management responsibility, or their designees.

(2) The council shall include representatives of educational

agencies in the service delivery area (representative of all educational agencies in the service delivery area), organized labor, rehabilitation agencies, two community-based organizations including those serving minority populations (with actual minority representatives as appropriate), economic development agencies, the public employment service, and child care resource and referral agencies, and a public assistance recipient who is currently enrolled in, or has recently completed training in, programs funded under this division.

(3) The remaining members may include representatives of significant groups of eligible participants and providers of services within the service delivery area, such as private proprietary schools and actual recipients of public assistance and other minority groups.

(4) The composition of the private industry council shall, to the extent feasible, represent the racial and ethnic characteristics of the service delivery area.

(b) The representatives on the council designated in paragraphs (1) and (2) of subdivision (a) shall be selected in accordance with the federal Job Training Partnership Act.

(c) Members shall be appointed for fixed and staggered terms of a duration deemed appropriate by the chief elected officials in the service delivery area, but in any case shall not be less than two years. Members may serve past the expiration date of their appointment until their successors are appointed.

(d) All vacancies occurring subsequent to the initial appointments to the private industry council shall be filled within 60 days of their occurrence in the same manner as the original appointments by the chief elected official or officials in the service delivery area.

SEC. 23. Section 15032 of the Unemployment Insurance Code is amended to read:

15032. It shall be the duty of the council to:

(a) Design and plan the program of job preparation and training services for the service delivery area, which shall include all of the following:

(1) Establishing the service delivery area's eligibility and services priorities.

(2) Determining the types of services and training to be provided.

(3) Determining the industries and occupations for training.

(4) Establishing criteria for the content and quality of training.

(5) Determining the entities which will deliver the training and services.

(6) Determining the annual utilization of available funds and resources and preparing the program budget.

(b) Survey local employment needs and local economic conditions, including a description of:

(1) Unemployed, underemployed and "discouraged" workers.

(2) Jobs lost and jobs created in the region.

(3) Local labor market supplies and migratory patterns.

(4) Labor force training needs and skills assessment.

(5) Linkages with small businesses.

(6) Economic development strategies, implemented or planned for the region and their employment impact.

(7) Employment by private industry receiving contracts, loans, industrial revenue bonds, grants, tax abatements or preferential zoning from the local governing body.

(c) Guide the development of the job preparation and training services plan prepared in accordance with the provisions of Chapter 5 (commencing with Section 15040) to assure that it conforms with the priorities, criteria and standards set forth by the council pursuant to subdivision (a).

(d) Monitor the performance of the job preparation and training services system to assure its compliance with the job preparation and training services plan, and through utilization of performance criteria established pursuant to this division, assess the levels of success achieved by the system. Where the system's performance is not up to standard, the council shall propose modifications which maximize successful outcomes.

(e) Assure that the system is fully responsive to the employment needs of the private sector, program participants, and the economic conditions occurring within the service delivery area, and assure that the system is compatible with and supportive of federal, state and local business and economic development activities occurring within the service delivery area.

(f) Promote the integration of the system with all other job training, vocational education, and employment services resources available within the service delivery area, including the joint development of plans with the department's local offices for employment services including the Work Incentive Program, and local educational agencies for vocational education programs pursuant to the provisions of Chapter 7 (commencing with Section 15070).

(g) Promote the transition of participants served by the system into full-time unsubsidized jobs with special emphasis on nontraditional jobs in the private sector for women.

(h) Consult quarterly with the local child care resource and referral agency to review data on the need for child care and development services for participants eligible for services under this division.

(i) Develop and implement a plan for participation in the planning process, program development, and program evaluation by representatives of eligible participants and service providers within the service delivery area, including all types of public and private vocational education agencies and schools, public assistance recipients, participants in services under this division, and child care resource and referral agencies.

(j) Prepare and distribute to interested parties a quarterly program assessment for review and comment.

SEC. 24. Section 15032.5 of the Unemployment Insurance Code is repealed.

SEC. 24.5. Section 15034.5 is added to the Unemployment Insurance Code, to read:

15034.5. Notwithstanding the provisions of Sections 1090 and 87100 of the Government Code, a member may vote on any matters before the private industry council except those which have a direct bearing on services to be provided by that member (or any business or organization which that member directly represents) or which would financially benefit the member or the business or organization which the member directly represents.

SEC. 24.6. Section 15036 of the Unemployment Insurance Code is amended to read:

15036. The state council shall consist of 32 members, appointed by the Governor from nominations as provided in this section, and as required by federal law, and be representative of the population of the state with regard to sex, race, ethnic background, and geographical distribution. The Governor shall appoint one nongovernmental member to be the chairperson of the council. The appointment of the chairperson, and the appointments of members designated under subdivision (d), shall be subject to confirmation by the Senate.

(a) Eleven members shall be representatives of large and small business, industry, and agriculture. Eight of these members shall be owners of business concerns, chief executives, or chief operating officers of business concerns or other private sector executives who have or have had substantial management or policy responsibilities for an autonomous part of a business. Of these, at least four shall be current or past members of a private industry council. Two shall be representatives from general purpose organizations representing business interests. One of the members shall also have a record of employing a significant number of disabled persons.

(b) Seven members shall be representatives of state government. These representatives shall be a Member of the Senate nominated by the Rules Committee, a Member of the Assembly nominated by the Speaker, the Lieutenant Governor, the Superintendent of Public Instruction, the Secretary of Health and Welfare, the Secretary of Business, Transportation and Housing, and the Chancellor of the California Community Colleges, or their designees.

(c) Seven members shall be representatives of local government. Four shall be members of county boards of supervisors, and shall be nominated by the County Supervisors' Association of California. Three shall be members of city councils, and shall be nominated by the League of California Cities.

(d) Seven members shall be representatives of public and private organizations providing employment and training services or advocacy for program participants. One each shall represent organized labor, local vocational education organizations serving youth, the population eligible for services, community-based

organizations, private proprietary schools, veterans organizations, and organizations serving older Californians.

In the event that the Governor finds an insufficient number of acceptable nominees in a given category, he shall return the nomination lists to the respective nominating bodies within 10 days of receipt. The bodies shall then have 10 days to submit new lists of nominees. If nominations are not received within 10 days, members shall be appointed at the discretion of the Governor.

SEC. 24.7. Section 15037.3 is added to the Unemployment Insurance Code, to read:

15037.3. It is the intent of the Legislature that resources available under this division be used to support services provided under the California Conservation Corps. To that end, the council shall develop guidelines and procedures for the identification referral by the private industry councils of eligible youth who would benefit from service in the California Conservation Corps, if the referral is deemed appropriate by the councils in their service delivery area plans, and for the funding of such services through the consolidated work fund.

SEC. 25. The heading of Chapter 5 (commencing with Section 15040) of Division 8 of the Unemployment Insurance Code is amended to read:

CHAPTER 5. JOB PREPARATION AND TRAINING SERVICES PLANS

SEC. 26. Section 15040 of the Unemployment Insurance Code is amended to read:

15040. A job preparation and training services plan shall be prepared in accordance with an agreement or agreements between the local private industry council and the chief elected official or officials in the service delivery area. The plan shall conform to the provisions of this division and the criteria, rules, and procedures established pursuant to this division. The job preparation and training plan shall be prepared in accordance with the requirements and provisions of this division and the federal Job Training Partnership Act.

SEC. 27. Section 15041 of the Unemployment Insurance Code is amended to read:

15041. To receive any federal and state funds appropriated for the purposes and requirements of this division, a service delivery area shall operate under and adhere to a plan approved by the state council.

SEC. 28. Section 15042 of the Unemployment Insurance Code is amended to read:

15042. Service delivery area plans shall be developed and submitted to the director in accordance with a time schedule set forth by the department, which shall, to the extent feasible, allow for the integration of cost and services needs information contained in the plans with the development of the Governor's annual State

Budget proposal.

SEC. 29. Section 15043 of the Unemployment Insurance Code is amended to read:

15043. The content of service delivery area plans shall include, but is not necessarily limited to, the following:

(a) A description of the service delivery area's system for administering and delivering services including private industry council membership.

(b) A description of, and the rationale for, the service delivery area's eligibility and services priorities, the types of services and training provided, the industries and occupations of training, the criteria for the content and quality of training, the entities delivering services, and the performance measures used.

(c) A description of the coordination with and the uses made of other agencies and organizations within the service delivery area providing job training, vocational education, client advocacy, child care and employment services, which shows the value of these other resources in addressing the needs reflected in the plan.

(d) A proposed budget for the planning period describing program objectives, services to be provided for the purpose of achieving those objectives, the sources and amounts of funds to be allocated to each type of service, and estimates of the number of persons in each eligibility category in need and the number of persons in each eligibility category to be served by each type of service. The budget shall also describe administrative objectives, the purpose and rationale for such objectives, and the sources and amounts of funds to be allocated to each objective.

(e) A status report on the activities of the current fiscal year describing progress toward achieving program and administrative objectives as well as other legislative requirements imposed by the current budget, including the current status and financial condition of the federal and state funds allocated to the service delivery area and the capacity to meet current year objectives.

(f) A description of the activities, financial condition and accomplishments of the service delivery area's job preparation and training services program for the preceding fiscal year, including a description of the extent to which program and administrative objectives set forth for that year were realized, and a description of expenditures by sources of funds for services provided pursuant to this division in that year.

(g) A description of the condition of job preparation and training services taking place in the service delivery area, including an analysis of issues confronting the program and recommendations appropriate to resolve such issues.

(h) A description of the unmet childcare needs of participants eligible for services under this division, including an assessment of the role of employers in reducing this barrier to participation.

SEC. 30. Section 15044 of the Unemployment Insurance Code is amended to read:

15044. Jobs provided pursuant to the plan shall, to the extent possible, offer net income sufficient to meet the family's necessary expenses for food, housing, utilities, child care, and transportation.

SEC. 31. Section 15045 of the Unemployment Insurance Code is amended to read:

15045. The opportunity shall be provided for public review and comment on the plan prior to final approval and in accordance with procedures which the chief elected officials determine are reasonable and appropriate which shall provide all of the following:

(a) A public hearing on the proposed plan by the private industry council, with at least 30 days' advance public notice, prior to submission to the chief elected official or officials.

(b) A 30-day posthearing comment period prior to final adoption of the plan by the council and submission to the chief elected officials.

(c) A requirement that the council or the local governmental unit or units, or both, respond in writing to any comments submitted concerning the plan as a part of the plan to be submitted to the department.

SEC. 32. Section 15046 of the Unemployment Insurance Code is amended to read:

15046. Each service delivery area's plan shall require the approval of both its chief elected officials and the local private industry council, and the plan submitted to the director shall so indicate this joint approval.

SEC. 33. Section 15047 of the Unemployment Insurance Code is repealed.

SEC. 34. Section 15050 of the Unemployment Insurance Code is amended to read:

15050. The Governor shall, after receiving the recommendation of the State Job Coordinating Council, designate directly or by contract the agency or agencies responsible for the provisions of this division.

The functions of the Governor's designee shall include:

(a) Overall direction, under the guidance of the state council of the statewide programs operated by service delivery areas under this division.

(b) Administration, either directly or by contract with another entity, of these statewide programs in service delivery areas that request the state to assume this function.

(c) Administration of special assistance programs to areas facing urgent employment and training needs that cross jurisdictional lines or result from major plant closures under the provisions of Chapter 7.5 (commencing with Section 15075), arrival and resettlement of significant numbers of refugees, or comparable circumstances. Nothing in this section shall be construed as modifying the manner in which federal Office of Refugee Resettlement Funds are used in this state.

(d) The Employment Development Department shall be

responsible for the administration of demonstration programs testing innovative approaches to assisting clients eligible under this division to find unsubsidized employment, which include, but are not limited to:

(1) The Employment Preparation Program, as authorized by Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) The Employment Training Program for unemployed parents in families that qualify for assistance under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, as authorized by Article 3.6 (commencing with Section 11335) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) The Supported Work Program, as authorized by Article 3.3 (commencing with Section 11321) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(4) The California Welfare Employment Skills Training Act, as authorized by Article 3.7 (commencing with Section 11340) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(5) The Youth Employment and Development Act, as authorized by Chapter 2.5 (commencing with Chapter 9800) of Division 3.

(6) The Regional Employment Assessment, Job Search Assistance, and Placement Services for Displaced Workers Act of 1982, as authorized by Chapter 2.9 (commencing with Section 9970) of Division 3.

To the extent feasible, in implementing demonstration programs designed for eventual merger into the statewide programs operated by service delivery areas under this division, the department shall involve appropriate local agencies in program planning and operation within the demonstration sites. Once such demonstration programs are completed, if they have proven to be effective in achieving the intent and objectives of this division, the department shall take the steps necessary to ensure their implementation and integration wherever appropriate within the statewide employment and training programs operated by the service delivery areas.

SEC. 35. Section 15051 of the Unemployment Insurance Code is amended to read:

15051. The State Job Coordinating Council shall establish such rules, regulations, and procedures as are necessary to govern the administration of the provisions of this division and to assure that the legislative purposes and intent are carried out. The regulations shall include:

(a) Standards and criteria for determining eligibility and services priorities pursuant to Section 15011. These shall include, but are not limited to, standards for insuring that a service delivery area plan gives appropriate priority to public assistance recipients.

(b) Standards for determining appropriate and allowable services and training activities, and entities providing services and training. These shall include, but are not limited to, insuring that all occupational skill training correspond to area labor market demand,

insuring that any training entity providing services has a demonstrated record of past performances in training and placing persons in unsubsidized private sector employment or offers reasonable assurance that services provided will result in these placements, and prohibiting contracting with entities whose officers have been convicted of fraud or misappropriation of funds within the last two years.

(c) Standards and criteria to be used by service delivery areas in developing plans. These shall include, but are not limited to, appropriate placement goals and requirements for adequate public notice and opportunity for public involvement in the development of service delivery area plans.

(d) Standards, criteria, and procedures to be used by the department in evaluating and approving service delivery area plans. Reasons for rejection of a service delivery area plan shall include, but are not limited to, unacceptably low placement goals, excessively high average cost per placement, and administrative costs exceeding 15 percent of the total service delivery area allocation.

(e) Standards for assuring adequate, efficient service delivery area administration including standards for assuring efficient service delivery area management information and financial accounting systems.

(f) Standards and criteria for assuring effective coordination and linkages with other agencies that deliver training and employment-related services.

SEC. 36. Section 15052 of the Unemployment Insurance Code is amended to read:

15052. The department shall review and recommend to the state council approval of plans submitted under the provisions of Chapter 7.5 (commencing with Section 15075) in accordance with established standards and criteria for determining the adequacy of a plan and shall allocate federal and state funds to a service delivery area only upon approval of its plan.

SEC. 37. Section 15053 of the Unemployment Insurance Code is amended to read:

15053. The department shall allocate to each service delivery area an amount of the federal and state funds annually appropriated for the purposes and requirements of this division in accordance with the federal Job Training Partnership Act and this division. Funds may be allocated to service delivery areas on the basis of performance to the extent authorized by federal law and this division. Performance shall be measured by increases in employment and earnings, the reductions in welfare dependency, and other standards determined appropriate.

SEC. 38. Section 15055 of the Unemployment Insurance Code is amended to read:

15055. The department shall, with the assistance of the service delivery areas and approval of the state council, develop standards whereby the performance of programs in the service delivery area

can be measured. The department shall provide each service delivery area with these performance standards in order that local private industry councils can assess program achievements of the service delivery area. The standards shall:

(a) Recognize that performance may vary among the service delivery areas due to economic conditions and to the employability barriers confronting their eligible populations.

(b) Be based on participant outcome measures that are related to the services provided, including obtaining unsubsidized employment, tenure of employment, adequacy of wages received, comparisons of wages before and after training, and other such measures as the department may determine appropriate.

(c) Be able to measure the avoidance of costs that would have occurred had the employment and training services not been provided in comparison with the costs of providing such services.

(d) Accommodate delays in job placement following completion of training services due to illness or other circumstances, including pregnancy.

SEC. 39. Section 15056 of the Unemployment Insurance Code is amended to read:

15056. In accordance with its established standards, the department shall monitor and evaluate the performance of programs in the service delivery area including assessments of efficiencies of administration, effectiveness of coordination and linkages with other training and employment services resources. The department shall also determine levels of achievement for service delivery areas. The purpose of these monitoring and evaluation activities is to determine reasons for high and low levels of program performance, administrative efficiencies, and program coordination, and to determine the appropriate allocation of performance-based funding pursuant to Section 15053. Based on these determinations, the department shall provide technical assistance and training to service delivery areas which promote the development of service delivery area programs reflecting models of demonstrated success.

SEC. 40. Section 15057 of the Unemployment Insurance Code is amended to read:

15057. The department shall assure that the services and resources provided by its labor exchange function, labor market information system, and employment services network, including job agents, are fully supportive of the job preparation and training services system of the service delivery area. The department shall assure that its local offices develop operational plans which are coordinated with and support the development and operation of annual plans prepared pursuant to this division.

SEC. 41. Section 15058 of the Unemployment Insurance Code is amended to read:

15058. The department shall make every effort to assure the maximum cooperation by other state departments and agencies and to assure that resources and services provided by the other state

departments and agencies shall be, to the maximum extent possible, coordinated with annual plans and made available to participants served by those plans.

SEC. 42. Section 15063 of the Unemployment Insurance Code amended to read:

15063. The department, with the advice of the State Department of Social Services, county welfare departments, local governments administering employment and training services and the State Job Training Coordinating Council, shall develop intake and assessment forms and procedures for the Work Incentive Program to make them compatible with the requirements of the local employment and training programs pursuant to this division in order to eliminate the duplication of administrative costs for Work Incentive Program registrants who are provided employment and training services by the local employment and training program.

SEC. 43. Section 15070 of the Unemployment Insurance Code is amended to read:

15070. The Legislature recognizes that available funding for a program of job preparation and training services to economically disadvantaged persons is severely limited, that other programs providing employment-related training, educational, support, and placement services offer additional essential resources to such persons, and that only with the proper coordination of these additional resources with the program of services established under this division, will it be possible to avoid costly duplication and achieve the objectives and purposes of this division. Therefore, it is the intent of the Legislature that the State Department of Education, State Department of Social Services, the Department of Rehabilitation, the Chancellor's office of the Community Colleges, and the employment services components of the Employment Development Department offer their full cooperation and assistance to assure that vocational education programs, and employment services and supportive social services, including child care services, are, to the maximum extent possible, available to support job preparation and training services plans operating pursuant to this division.

SEC. 44. Section 15071 of the Unemployment Insurance Code is amended to read:

15071. To assure compliance with legislative intent regarding the content and availability of vocational education programs provided by community colleges, school districts, and regional occupational centers and programs, each local private industry council shall for programs provided in the service delivery area, review and comment on the vocational education courses or programs subject to review pursuant to Sections 52302.3, 52520, and 78016 of the Education Code. The council shall conduct its review prior to the review of the appropriate governing body as required by Section 52302.3 of the Education Code and the council shall notify the governing body of its determinations.

SEC. 45. Section 15072 of the Unemployment Insurance Code is

amended to read:

15072. To assure compliance with legislative intent regarding the content and availability of employment services provided by the department, the local elected official or officials and the private industry council shall, pursuant to the federal Wagner-Peyser Act, as amended, develop jointly with local offices of the department operating within the service delivery area the employment services and training plans prepared pursuant to Division 3 (commencing with Section 9000).

SEC. 46. Section 15073 of the Unemployment Insurance Code is amended to read:

15073. To assure compliance with legislative intent regarding the availability of subsidized child care services provided through programs administered by the Superintendent of Public Instruction, each local private industry council shall submit information to the Superintendent of Public Instruction pursuant to Section 8285.5 of the Education Code. The council's comments shall describe the unmet child care needs of participants eligible for services under this division.

SEC. 46.5. Chapter 7.5 (commencing with Section 15075) is added to Division 8 of the Unemployment Insurance Code, to read:

CHAPTER 7.5. DISPLACED WORKERS ASSISTANCE

15075. The Legislature recognizes that fundamental shifts occur within the economy which result in the closure of existing production facilities, retail establishments, and business institutions, or in severe reduction in employment opportunities, which bring about mass layoffs and consequent economic hardship to many California families. In order to assist these families in regaining economic security, and in conformance with the provisions of Title III of the federal Job Training Partnership Act of 1982, and Chapter 6 (commencing with Section 15050), the Displaced Workers Assistance Program is hereby established.

15076. The private industry councils established in each service delivery area shall prepare an employment and training plan for displaced workers, which shall provide for each of the following:

(a) Identification, in conjunction with offices of the Employment Development Department in the area or displaced worker assistance centers established by the department in accordance with Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3, of individuals eligible for assistance due to any of the following facts:

(1) The individuals have been terminated or laid off or have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation.

(2) The individuals have been terminated or have received a notice of termination of employment, as a result of any permanent

closure of a plant or facility.

(3) The individuals are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which they reside, including older individuals who have had substantial barriers to employment by reason of age.

(b) Determination of job opportunities which exist within the local labor market area or outside the labor market area for which displaced workers could be retrained. This determination shall be undertaken in conjunction with both of the following:

(1) Labor market analysts of the Employment Development Department.

(2) As appropriate, representatives of the Department of Economic and Business Development in accordance with its functions pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(c) Determination of what training for identified employment opportunities exists or could be provided within the local area. This determination shall be undertaken in conjunction with representatives designated by the agencies responsible for implementation of the Displaced Worker Education and Training Act pursuant to Chapter 2.8 (commencing with Section 9950) of Part 1 of Division 3.

(d) Informing eligible displaced workers of training opportunities. This process shall be undertaken in conjunction with offices of the Employment Development Department in the area or displaced worker assistance centers established by the department.

(e) A program for displaced worker assistance drawing, as appropriate, upon existing facilities and resources, which may include, but not be limited to, all of the following:

(1) Displaced worker employment services and related assistance, including all of the following:

(A) Job search assistance.

(B) Job development.

(C) Support services, such as financial and personal counseling, child care and related children's services, and assistance in obtaining equipment and supplies necessary for retraining or new employment.

(D) Relocation assistance, if it is determined that an eligible individual cannot obtain employment in the commuting area and has secured suitable long duration employment or a bona fide job offer in another area in the state.

(E) Prelayoff assistance.

(F) Programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

(2) Training in job skills for which demand exceeds supply, in accordance with the provisions of the Displaced Worker Education and Training Act pursuant to Chapter 2.8 (commencing with Section

9950) or the Employment Training Program pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(3) Commuting assistance, consistent with the provisions of the displaced worker transportation program established pursuant to Section 14002.5 of the Government Code.

(f) Consultation with affected labor organizations, in the case of any assistance program which will provide services to a substantial number of members of these labor organizations.

(g) Involvement of displaced workers in program delivery, including, as appropriate, paid employment for these individuals in providing services under the program.

(h) Utilization of services and resources from other sources, public and private, and specific procedures for coordination with other programs, in order to maximize services for displaced workers and their families and increase employment and training opportunities. Examples of programs to be included are the following:

(1) Other employment and training and education programs.

(2) Social services, including child care and related children's services.

(3) Housing programs, including low-income weatherization and home energy conservation programs.

(4) Transportation related programs, including highway, bridge, and mass transit construction and repair.

(5) Other programs related to infrastructure development and repair.

(6) Economic development programs deemed applicable.

(i) Contracting with the Employment Development Department in order to provide funding for special services the department is to provide under the local displaced worker assistance program.

(j) Coordination with neighboring jurisdictions, in cases of plant closings or mass layoffs which cross service delivery areas.

(k) A system of program and fiscal accountability to ensure maximum benefit from the expenditure of federal and state funds and which is consistent with procedures established in the state's job training plan pursuant to Section 121 of Public Law 97-300, the federal Job Training Partnership Act, including all of the following:

(1) Performance goals and standards, including sample measures or estimates of all of the following:

(A) Placement and retention in unsubsidized employment.

(B) Earnings and wages.

(C) Reduction in unemployment insurance and public assistance costs.

(2) Procedures for reporting on the outcome of the program which include all of the following:

(A) A description of activities conducted.

(B) Characteristics of participants.

(C) The extent to which the activities conducted achieved relevant performance goals.

(3) Fiscal control, accounting, audit and related provisions.

The plan shall be reviewed, during a 30-day period, by the private industry council and the board of supervisors or other applicable local elected officials. Their written recommendations regarding state approval of the program shall be included prior to submission of the plan to the State Job Training Coordinating Council.

15077. The State Job Training Coordinating Council shall, with the assistance of the California Economic Adjustment Team established pursuant to Article 3.5 (commencing with Section 15340) of Chapter 1 of Part 6.7 of Division 3 of the Government Code, do all of the following:

(a) Review and approve, with the assistance of the Employment Development Department, the plans for displaced workers assistance programs submitted by private industry councils.

(b) Coordinate displaced workers assistance efforts in situations where plant closures or layoffs within an industry have a significant statewide impact.

(c) Encourage and coordinate early identification of situations of potential plant closures, and provide any assistance which may be necessary to alleviate economic dislocation.

(d) Provide assistance to the Department of Business and Economic Development in active recruitment of replacement industries or establishments.

(e) Cooperate with the Employment Training Panel in the coordination of training and services for displaced workers eligible under Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(f) Serve as the state agency providing any information and procedural activities which may be required by the federal government to ensure federal funding.

(g) Review and approve the recommendations of the Employment Development Department regarding the funding to be allocated to each private council for the displaced worker assistance programs proposed in the plans developed in accordance with Section 15076. Criteria in allocating funds shall include, but need not be limited to, both the following:

(1) The severity of worker displacement in the area, including both the number of displaced workers and the unemployment rate.

(2) The program's capacity, based on information provided by the private industry council and other applicable sources, to directly place or prepare workers for long-duration unsubsidized employment.

(h) Determine amounts of funding to be withheld for a special statewide program to be available to deal with sudden or severe economic dislocation under Section 15077.5.

(i) Provide, with the assistance of the Employment Development Department, for the submission of applications to the United States Secretary of Labor for additional federal funding to the state in accordance with the national program defined in Section 301 of

Public Law 97-300.

(j) Recommend to the Governor necessary components of state plans under the jurisdiction of other state offices, departments or agencies which administer programs appropriate for coordination with displaced worker assistance programs, pursuant to the provisions of this chapter and Section 308 of Public Law 97-300.

15077.5. (a) A special statewide program of assistance for displaced workers shall be available to address sudden or severe economic dislocation under any of the following circumstances:

(1) A community, through its private industry council, board of supervisors, or other applicable local elected officials, requests or accepts state services.

(2) The private industry council does not submit a program plan to the state within 30 days after notification by the Employment Development Department of a plant closure or mass layoff, or if the state determines that the plan does not sufficiently meet the needs of displaced workers.

(3) Where a plant closure or substantial reduction in employment at a worksite affects workers residing in more than one service delivery area, and there is no coordinated plan among affected areas.

(b) The State Job Training Coordinating Council with the assistance of the Employment Development Department shall provide special initiatives in statewide economic development programs, including, but not limited to, employer contracts with the state to provide services.

(c) The State Job Training Coordinating Council or its designee may request that appropriate entities, consistent with this chapter, prepare state plans for services under the circumstances specified in subdivision (a). The plans shall be submitted to the council for approval.

(d) Employment related services in these plans shall be principally under the supervision of the Employment Development Department. They shall be in accordance with the provisions of employment and training plans for displaced workers defined in Section 15076.

(e) Training in these programs shall be in job skills for which demand exceeds supply and shall be consistent with the provisions of paragraph (2) of subdivision (e) of Section 15076.

15078. For purposes of matching federal funds as required in Section 304 of Title III of the federal Job Training Partnership Act, to the extent such funds are appropriated, "state matching funds" shall include, but not be limited to, all of the following:

(a) Funds expended pursuant to Chapter 2.8 (commencing with Section 9950) of Part 1 of Division 3.

(b) Funds expended pursuant to Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3.

(c) Funds expended pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(d) Funds expended pursuant to Article 1.8 (commencing with

Section 1274) of Part 1 of Division 1.

15079. In order to maximize employment and training services to displaced workers, it is the intent of the Legislature that subsistence assistance for workers enrolled in retraining be financed through unemployment insurance funds, in accordance with the provisions of Article 1 (commencing with Section 1274) of Chapter 5 of Part 1 of Division 1, and Section 1274.35. The State Job Training Coordinating Council shall report biennially, based on projections prepared by the Employment Development Department, estimated costs to the unemployment insurance fund for this purpose. These reports shall be submitted to the Governor and the Legislature by November 15 and May 15 of each year.

SEC. 47. Section 15080 of the Unemployment Insurance Code is amended to read:

15080. The funding for services authorized under this division is to be administered through:

(a) A Consolidated Work Program Fund combining state and, to the extent permitted by federal law, federal funds received for the support of locally administered statewide programs.

(b) Appropriate state and federal categorical funds for demonstration and special assistance programs administered by the department.

SEC. 48. Section 15081 of the Unemployment Insurance Code is amended to read:

15081. The Consolidated Work Program Fund shall provide a single source of funding to be allocated by the department to service delivery areas in accordance with the requirements of Sections 15007 and 15053 for funding services provided pursuant to service delivery area plans and the provisions of this division. The purpose of the Consolidated Work Program Fund is to assure more efficient, equitable, and appropriate use of available resources and to provide greater flexibility in responding to the needs of persons receiving services under service delivery area plans.

Nothing in this division shall be construed to preclude the provision of funds through service delivery area plans for programs or services designed to serve the employment needs of disabled individuals otherwise eligible for services under the provisions of Chapter 2 (commencing with Section 15010).

SEC. 48.5. Section 15082 of the Unemployment Insurance Code is amended to read:

15082. Federal and state funds to be transferred to the Consolidated Work Program Fund shall include:

(a) That portion of the federal employment and training funds received by the state that is designated for the purpose of local delivery of employment and training services.

(b) Moneys heretofore appropriated to the:

(1) Work Incentive Program authorized under Division 2 (commencing with Section 5000) of this code and Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division

9 of the Welfare and Institutions Code. These funds shall not be placed into the consolidated fund until July 1, 1984, contingent upon the feasibility report required by Section 12 of Assembly Bill 3424 as enacted during the 1982 portion of the 1981–82 Regular Session, recommending the transfer and a later enacted statute requiring such a transfer.

(2) Employment services to food stamp recipients as authorized by federal law pursuant to Public Law 95-113.

(c) Reinvestment of a portion of state public assistance grant savings reasonably attributable to the operation of this program. The Governor's Budget shall annually identify such savings resulting from the prior fiscal year's program operations and recommend the portion, if any, to be applied toward program funding during the budget year.

SEC. 49. Section 15087 of the Unemployment Insurance Code is amended to read:

15087. Upon completion of demonstration programs which it has administered, the department shall take all steps necessary to ensure the implementation and integration within the service delivery area's employment and training services programs of those demonstration models of proven effectiveness for achieving the intent and objectives of this division.

SEC. 50. Section 12 of Chapter 1329 of the Statutes of 1982 is amended to read:

Sec. 12. To the extent that the objectives and purposes expressed in this act are not reflected in current law, the State Department of Social Services, in consultation with the local governments administering employment and training programs, the county welfare departments, and recipient organizations, and in consultation with the Employment Development Department on issues affecting employment and training, shall conduct a study to identify needed improvements in the interrelationship between existing employment and public assistance delivery systems, and shall develop an action plan for the improvement of the identified deficiencies in the context of the employment and job preparation provisions proposed in Section 8 of this act. Items to be examined in this study and the subsequent action plan shall include, but not be limited to, the following issues:

(a) The establishment of an effective screening and work assessment function in the state's public assistance delivery system. The objective of this effort will be to develop an improved method for determining which public assistance applicants or recipients should be expected and required to find work or enter employment training programs, and which should not. This shall also include the feasibility of creating the function of an employment adviser who would be responsible for certifying the employable status of public assistance applicants or recipients, and the feasibility and cost/benefit of revising current work registration exemptions, in particular for single parents with children under age six.

(b) Appropriate sanctions for noncooperation with the work requirements of the various public assistance programs, such as AFDC and food stamps, including the feasibility of developing common sanction provisions for the different programs.

(c) The most effective approach for meeting the needs of public assistance applicants after an employability assessment has been completed. The department shall explore the need for changes in the current payment system to differentiate between payments to those who have been determined to be employable and those who have not, such as by using training stipends and interim income support payments. This would also deal with the best method for meeting the training related costs of the employment or training services, and the use of disregards for employed persons.

(d) Recommendations for the implementation of these provisions at the local level through the integrated employment and job preparation system described in this act. This shall include a definition of the proper lines of authority between the state and the service delivery areas in the respective areas of public assistance and employment services.

(e) Recommendations for the integration of various employment strategies to meet the intent and objectives of the Legislature as expressed in this act. These may include, but need not be limited to, job search assistance programs, supported work projects, and work experience assignments.

(f) Recommendations on how to achieve the intent of these provisions while ensuring maximum federal financial participation. The department shall identify federal waivers that may be necessary to meet the intent of these provisions.

(g) Transfer of the moneys appropriated to the Work Incentive Program to the Consolidated Work Fund by July 1, 1984.

(h) Expansion of the Employment Preparation Program services as set forth in Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code in all service delivery areas to be funded from the Consolidated Work Fund.

(i) A strategy for the implementation of these provisions, detailing those actions that can be accomplished by revising state regulations, and those requiring legislative action at the state or federal level.

The department shall complete this action plan and develop proposed legislative language for enacting its contents, to be submitted to the appropriate policy committees of each house of the Legislature by July 1, 1983. Implementation of the proposed provisions would commence no later than July 1, 1984, to the extent feasible, contingent upon passage of enabling legislation.

SEC. 51. Section 17 of Chapter 1329 of the Statutes of 1982 is amended to read:

Sec. 17. The Family Economic Security Program: Job Preparation and Training Services shall be in effect in all service

delivery areas of this state by October 1, 1983.

SEC. 52. Section 19 of Chapter 1329 of the Statutes of 1982 is amended to read:

Sec. 19. Nothing in this act shall be construed so as to hold local units of government liable for the costs of implementing any new duty or higher level of service provided for under this act.

SEC. 53. It is the intent of the Legislature that state personnel and resources presently supporting programs specified in Section 15082 of the Unemployment Insurance Code, as amended by this act, be organized into a single administrative entity either as a major division within an existing state department or as a new state department. The purposes of the reorganization are to:

(1) Promote the intent and purposes of the Family Economic Security Program: Job Preparation and Training Services,

(2) Achieve integration of, and response to policies and direction provided by the state Job Training Coordinating Council,

(3) Assure the investment in job training programs results in a more skilled work force, and

(4) Produce cost savings through administrative efficiencies.

SEC. 54. The Governor shall conduct a study to determine the appropriate state organizational structure required to achieve the Legislature's intent and purposes. On the basis of findings from the study, the Governor is hereby authorized to submit to the Legislature a reorganization plan, pursuant to Article 7.5 (commencing with Section 12080) of Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, which accomplishes the intent and purposes of this section. The Governor's reorganization plan shall be submitted to the Legislature by January 1, 1986. In the event the Governor determines that no reorganizational changes should be undertaken, he shall, by that same date, submit to the Legislature a report which describes the findings and conclusions supporting the determination.

SEC. 55. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the state to meet the requirements of the federal Job Training Partnership Act of 1982 and to conform with the requirements of federal law at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 538

An act making an appropriation to pay the settlement of the claim of Joan M. Kamer against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. The sum of one hundred sixty thousand dollars ($160,000) is hereby appropriated from the General Fund to the Department of Justice to pay the settlement of the claim of the plaintiff against the State of California in the case entitled Kamer v. Pomona Psychiatric Hospital, case number C 265 977, brought in the Superior Court of the State of California for the County of Los Angeles. Payment of the sums specified in this section shall be in accordance with the terms of the settlement reached by the plaintiff and the State of California.

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:

The plaintiff has been hospitalized and has undergone surgery on several occasions. In order to relieve the hardship of the plaintiff as quickly as possible by paying the settlement of the claim, it is necessary that this act go into immediate effect.

CHAPTER 539

An act making an appropriation to pay the settlement of the claim of Cynthia Ann Pettijohn against the State of California in Cynthia Ann Pettijohn v. State of California for personal injury, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. The sum of two hundred sixty-five thousand dollars ($265,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the State Department of Justice to pay the settlement of the claim of Cynthia Ann Pettijohn against the State of California in the action for personal injury entitled Cynthia Ann Pettijohn v. State of California, No. SCC 04279 brought in the Superior Court of the State of California for the County of Los Angeles.

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 pay the settlement arising out of an action brought by the plaintiff and ending a hardship to her, as quickly as possible, it

is necessary that this act take effect immediately.

CHAPTER 540

An act to repeal and add Section 15901 to, and to repeal Sections 15901.5 and 15901.6 of, the Government Code, relating to state economic policy.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 15901 of the Government Code is repealed.

SEC. 2. Section 15901 is added to the Government Code, to read:

15901. (a) The Governor, utilizing his staff and the resources of state agencies, shall transmit to the Legislature, not later than April 15 of each year, an economic report to be designated as the "Economic Report of the Governor" setting forth all of the following:

(1) A review of economic developments during the preceding calendar year, including trends in employment, unemployment, income, construction, and major economic sectors providing a measure of economic growth.

(2) Forecasts of trends in employment, income, and investment for the coming year and trends in such major economic sectors as it is feasible to project.

(3) Additional material on the California economy that is pertinent and of general interest, with historical analysis and projections of use in economic planning whenever possible.

(4) Insofar as possible, summaries of state policies and actions that relate to the economic development of the state pursuant to Section 15900.

(b) In conjunction with the economic report, the Governor shall present an economic message reviewing significant economic achievements of the past year, outlining problem areas, and defining economic policy, and shall make recommendations as may be appropriate for programs to further economic development to increase employment, income, and investment in the state.

(c) The Governor may transmit from time to time to the Legislature, reports supplementary to the economic report, providing information on the current status of the California economy and any new or revised recommendations as he deems necessary or desirable to achieve the policy declared in Section 15900.

SEC. 3. Section 15901.5 of the Government Code is repealed.

SEC. 4. Section 15901.6 of the Government Code is repealed.

CHAPTER 541

An act to add and repeal Section 1328d to the Penal Code, relating to subpoenas.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 1328d is added to the Penal Code, to read:

1328d. Notwithstanding Section 1328, a subpoena may be delivered by mail or messenger. Service shall be effected when the witness acknowledges receipt of the subpoena to the sender, by telephone, by mail, or in person, and identifies himself or herself by reference to his or her date of birth and his or her driver's license number or Department of Motor Vehicles identification card number. The sender shall make a written notation of the identifying information obtained during any acknowledgment by telephone or in person. A subpoena issued and acknowledged pursuant to this section shall have the same force and effect as a subpoena personally served. Failure to comply with a subpoena issued and acknowledged pursuant to this section may be punished as a contempt and the subpoena may so state; provided, that a warrant of arrest or a body attachment may not be issued based upon a failure to appear after being subpoenaed pursuant to this section.

This section shall remain in effect until January 1, 1987, and on that date is repealed.

CHAPTER 542

An act to amend and repeal Section 978.5 of, and to add and repeal Section 1279.5 of, the Unemployment Insurance Code, relating to unemployment insurance and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 978.5 of the Unemployment Insurance Code is amended to read:

978.5. (a) Any employer who has elected under Section 1279.5 to participate in the shared work unemployment insurance benefit program, who has a negative reserve account balance on June 30th of two consecutive years, and whose reserve account has been charged for benefits paid under Section 1279.5 during the 12-month

period ending upon the later June 30th shall pay into the Unemployment Fund, in addition to all other contributions required by this division, contributions for the calendar year next succeeding such June 30th equal to the amount of benefits paid under Section 1279.5 during the 12-month period. These additional contributions shall be paid at the time and in the manner prescribed by the director.

(b) Contributions paid pursuant to this section shall be "contributions paid on his own behalf" as defined by Section 906.

(c) Contributions paid by an employer pursuant to this section for the 12-month period ending December 31, 1983, in excess of the amount of benefits paid pursuant to Section 1279.5 and charged to the employer's reserve account in the 12-month period ending June 30, 1982, shall be deemed erroneously collected and the employer shall be entitled to a refund or credit pursuant to Article 9 (commencing with Section 1176) in the amount of contributions erroneously collected. Within 90 days after the effective date of this subdivision, the director shall provide a copy and explanation of this section to all employers who, on or after July 1, 1981, have had in effect a worksharing unemployment insurance plan and are subject to contributions pursuant to this section. No interest shall be charged or payable on refunds made under this subdivision.

(d) The director shall provide a copy and explanation of this section to all employers who submit an application pursuant to Section 1279.5.

(e) This section shall remain in effect only until December 31, 1989, and on that date is repealed.

SEC. 2. Section 1279.5 is added to the Unemployment Insurance Code, to read:

1279.5. (a) Notwithstanding Section 1252 or 1252.2 or any other provision of this part, for the purposes of this section an individual is "unemployed" in any week if the individual works less than his or her normal weekly hours of work for the individual's regular employer, and the director finds that the regular employer has reduced or restricted the individual's normal hours of work, or has rehired an individual previously laid off and reduced that individual's normal hours of work from those previously worked, as the result of a plan by the regular employer to, in lieu of layoff, reduce employment and stabilize the work force by a program of sharing the work remaining after a reduction in total hours of work and a corresponding reduction in wages of at least 10 percent. The application for approval of a plan shall require the employer to briefly describe the circumstances requiring the use of work sharing to avoid a layoff. Normal weekly hours of work means the number of hours in a week that the employee normally would work for the regular employer or 40 hours, whichever is less. The plan must involve the participation of at least two employees and include not less than 10 percent of the employer's regular permanent work force involved in the affected work unit or units in each week, or in at least

one week of a two-consecutive-week period. A plan approved by the director shall expire six months after the effective date of the plan. A new plan shall not be approved during the 26-week period beginning with the expiration of a previously approved plan except when the previous plan expires during any quarter in which the average seasonally adjusted civilian unemployment rate in this state during the first three of the four months immediately preceding the beginning of the calendar quarter equals or exceeds 7.5 percent.

(b) Except as otherwise provided in this section, each individual eligible under this chapter who is "unemployed" in any week shall be paid with respect to that week a weekly shared work unemployment compensation benefit amount equal to the percentage of reduction of the individual's wages resulting from an approved plan, rounded to the nearest 5 percent, multiplied by the individual's weekly benefit amount.

(c) No individual who receives any benefits under this section during any benefit year shall receive any benefits pursuant to Section 1252 or 1252.2 as a partially unemployed individual with respect to any week during such benefit year while in employment status with the regular employer who initiated the program of sharing work under this section. No benefits under this section shall be payable on any type of extended claim.

(d) Any amount payable under this section shall be reduced by the amount of any and all compensation payable for personal services whether performed as an employee or an independent contractor or as a juror or as a witness, except compensation payable by the regular employer under a shared work plan.

For the purposes of this subdivision, "regular employer" may include, pursuant to an approved plan, a labor organization which periodically employs individuals in accordance with a collective bargaining agreement.

(e) The benefit payment under this section, if not a multiple of one dollar ($1), shall be increased to the next higher multiple of one dollar ($1).

(f) Section 1279 shall not apply to any individual eligible for any payment under this section.

(g) For the purposes of this section, an individual shall not be disqualified under subdivision (c) of Section 1253 for any week if both of the following conditions exist:

(1) The individual has not been absent from work without the approval of the regular employer.

(2) The individual accepted all work the regular employer made available to the individual during hours scheduled off due to the worksharing plan.

(h) Except as otherwise provided by or inconsistent with this section, all provisions of this division and authorized regulations apply to benefits under this section. Authorized regulations may, to the extent permitted by federal law, make such distinctions and requirements as may be necessary in the procedures and provisions

applicable to unemployed individuals to carry out the purposes of this section, including regulations defining normal hours, days, workweek, and wages.

(i) Employees shall not be eligible to receive any benefits under this section unless their employer agrees, in writing, and their bargaining agent pursuant to any applicable collective bargaining agreement agrees, in writing, to voluntarily participate in the shared work unemployment insurance benefit program created by this section.

(j) Notwithstanding Section 1327, the department shall not be required to notify an employer of additional claims which result from an approved plan submitted by the employer under which benefits are not paid in each week.

(k) The director may terminate a shared work plan for good cause if the plan is not being carried out according to its terms and intent.

(*l*) This section shall remain in effect only until December 31, 1986, and on that date is repealed.

SEC. 3. The department shall cooperate with persons conducting research evaluating the operation and effects of state short-time compensation programs, including but not limited to, persons conducting studies pursuant to Section 194 of Public Law 97-248. The department shall consult with the appropriate legislative committees and with interested employer and labor organizations to determine issues on which research will assist in determining whether and in what form this program should become a permanent part of the unemployment insurance program in this state. The department shall urge the Department of Labor to address issues determined to be of concern or interest in this state in the studies to be conducted pursuant to federal law, and shall advise the Legislature whether these issues are to be addressed in the federal studies.

SEC. 4. This 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 length of the current recession requires that the period of time an employer may utilize worksharing unemployment insurance be extended so that more persons will remain employed during this recession. In order to permit worksharing unemployment insurance to be extended at the earliest possible time and prevent unnecessary unemployment, it is necessary for this act to take effect immediately.

CHAPTER 543

An act to amend Sections 42920, 42921, 42922, 42923, and 42924 of, to add Sections 42920.5 and 42925 to, and to repeal Section 42922.5 of, the Education Code, to amend Sections 202, 903.7 and 15200.3 of the Welfare and Institutions Code, and to repeal Section 17 of Chapter 1276 of the Statutes of 1982, relating to youth, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 42920 of the Education Code is amended to read:

42920. (a) The Legislature finds as follows:

(1) It is essential to recognize, identify and plan for the critical and unique needs of children residing in licensed community care facilities.

(2) A high percentage of these foster children are working substantially below grade level, are being retained at least one year in the same grade level, and become school dropouts.

(3) Without programs specifically designed to meet their individual needs, foster children are frequently dysfunctional human beings at great penal and welfare costs.

(b) The Legislature further finds and declares that the instruction, counseling and related services for foster children which provide program effectiveness and potential cost savings shall be a state priority. It is therefore necessary to demonstrate program effectiveness and potential cost savings of school-centered programs which systematically have provided foster children services. Funding for that purpose is hereby provided to the following four unified school districts which have successfully operated foster children services programs: Elk Grove, Mount Diablo, Sacramento City, and San Juan.

SEC. 1.5. Section 42920.5 is added to the Education Code, to read:

42920.5. (a) Commencing with fiscal year 1982–83, and each fiscal year thereafter, each of the four school districts specified in subdivision (b) of Section 42920 shall receive, in addition to the base revenue limit, an allowance from the amount annually transferred to Section A of the State School Fund equal to the amount the district spent on foster children service programs in fiscal year 1981–82, adjusted to reflect cost-of-living increases by the total percentage increase received by all categorical education programs. In no event shall this cost-of-living adjustment equal or exceed the inflation adjustment provided pursuant to Section 42238.

This allowance shall be used exclusively for foster children

services.

The four school districts may continue to record revenue received pursuant to this subdivision in the same manner used to record revenue received for foster children services in the 1981–82 fiscal year.

The four school districts shall maintain their foster children services programs in fiscal year 1982–83 and each subsequent fiscal year at a program level comparable to that at which they administered those programs in fiscal year 1981–82.

(b) Commencing with fiscal year 1982–83, the base revenue of each of the four school districts specified in subdivision (b) of Section 42920 shall be permanently reduced in an amount equal to the amount spent on foster children services in fiscal year 1981–82.

SEC. 2. Section 42921 of the Education Code is amended to read:

42921. In addition to the four school districts specified in Section 42920, any other school district may provide educational services for children who reside in a regularly established licensed or approved foster home, located within the boundaries of the school district, pursuant to a commitment for placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 1 of the Welfare and Institutions Code.

SEC. 3. Section 42922 of the Education Code is amended to read:

42922. Any school district which provides educational services for foster children pursuant to Section 42921 shall receive funding in any fiscal year for those services only by such sums as may be specifically appropriated by the annual Budget Act of the Legislature for that fiscal year for support of those school-centered foster children services which provide program effectiveness and potential cost savings to the state.

The Legislature may appropriate moneys from the General Fund for this purpose, or, if sufficient funds are available, from the Foster Children and Parent Training Fund pursuant to the provisions of Section 903.7 of the Welfare and Institutions Code.

SEC. 4. Section 42922.5 of the Education Code is repealed.

SEC. 5. Section 42923 of the Education Code is amended to read:

42923. (a) Each school district providing foster children services pursuant to this chapter shall, by January 1, 1984, and by January 1 of each even-numbered year thereafter, report to the Secretary of Health and Welfare, Superintendent of Public Instruction, and Director of the Youth Authority such information as may be required jointly and severally by the Secretary of Health and Welfare, the Superintendent of Public Instruction, and the Director of the Youth Authority for the purpose of subdivision (b).

(b) The Secretary for Health and Welfare shall, by February 15, 1982, and by February 15 of each even-numbered year thereafter, report to the Legislature and the Governor on the foster children services provided by school districts.

(1) The report made pursuant to this subdivision shall be prepared jointly by the Secretary of Health and Welfare, the

Superintendent of Public Instruction, and the Director of the Youth Authority, with the advice and assistance of providers of foster children services.

(2) The report made pursuant to this subdivision shall include, but not be limited to, recommendations regarding the continuation of services, the effectiveness of the services, and broadening of the application of those services.

SEC. 6. Section 42924 of the Education Code is amended to read:

42924. Any funds allocated to school districts for foster children services pursuant to subdivision (c) of Section 42920 or Section 42922 shall be used only for foster children services and any funds not used by districts for those services shall revert to the state General Fund.

SEC. 7. Section 42925 is added to the Education Code, to read:

42925. (a) The Superintendent of Public Instruction shall form an advisory committee to make recommendations regarding the allocation of available funds to school districts applying to receive funding for foster children programs pursuant to subdivision (b). The advisory committee shall include, but not be limited to, representatives from the Department of the Youth Authority, from the State Department of Social Services, and from foster children services programs. Members of the advisory committee shall serve without compensation, including travel and per diem.

(b) Any school district which chooses to provide foster children services programs pursuant to Section 42921 may apply to the Superintendent of Public Instruction and to the advisory committee for funding for those programs.

(c) On or before November 1 of each year, the Superintendent of Public Instruction shall provide the Governor with a proposed sum to be included in the Governor's budget for the ensuing fiscal year for allocation to school districts wishing to provide foster children services programs pursuant to Section 42921. Recommendations regarding the specific programs to be funded and the amount to be allocated to each shall be included with the proposed sum.

SEC. 8. Section 202 of the Welfare and Institutions Code is amended to read:

202. (a) The purpose of this chapter is to secure for each minor under the jurisdiction of the juvenile court such care and guidance, preferably in the minor's own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to protect the public from criminal conduct by minors; to impose on the minor a sense of responsibility for his or her own acts; to preserve and strengthen the minor's family ties whenever possible, removing him or her from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public; and, when the minor is removed from his or her own family, to secure for him or her the support, custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents or other responsible relatives. This chapter shall be liberally construed to

carry out these purposes.

(b) The purpose of this chapter also includes the protection of the public from the consequences of criminal activity, and to such purpose probation officers, peace officers, and juvenile courts shall take into account the protection of the public in their determinations under this chapter.

(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support and maintain a minor child continues, subject to the financial responsibility of the parent to pay, during any period the minor may be declared a dependent or ward of the court and removed from the custody of the parent.

SEC. 9. Section 903.7 of the Welfare and Institutions Code is amended to read:

903.7. (a) There is in the State Treasury the Foster Children and Parent Training Fund, the moneys contained in which shall be used exclusively for the purposes set forth in this section.

(b) For each fiscal year beginning with fiscal year 1981–82, except as provided in Sections 15200.1, 15200.2, and 15200.3, the State Department of Social Services shall determine the amount equivalent to the state share of collections attributable to the enforcement of parental fiscal liability pursuant to Sections 903, 903.4, and 903.5. On July 1, 1982, and every three months thereafter, the department shall notify the Chancellor of the Community Colleges, the Department of Finance, and the Superintendent of Public Instruction of the above-specified amount. The State Department of Social Services shall authorize the quarterly transfer of any portion of this amount for any particular fiscal year exceeding three million seven hundred fifty thousand dollars ($3,750,000) to the Treasurer for deposit in the Foster Children and Parent Training Fund.

(c) If sufficient moneys are available in the Foster Children and Parent Training Fund, up to five hundred thousand dollars ($500,000) shall be allocated for the support of foster parent training programs conducted in community colleges. The maximum amount authorized to be allocated pursuant to this subdivision shall be adjusted annually by a cost-of-living increase each year based on the percentage given to discretionary education programs. Funds for the training program shall be provided in a separate budget item in that portion of the Budget Act pertaining to the Chancellor of the California Community Colleges, to be deposited in a separate bank account by the Chancellor of the California Community Colleges.

The chancellor shall use these funds exclusively for foster parent training, as specified by the chancellor in consultation with the California State Foster Parents Association and the State Department of Social Services.

The plans for each foster parent training program shall include the provision of training to facilitate the development of foster family homes and small family homes to care for no more than six children who have special mental, emotional, developmental, or physical

needs.

The State Department of Social Services shall facilitate the participation of county welfare departments in the foster parent training program. The State Foster Parents Association, or the local chapters thereof, and the State Department of Social Services shall identify training participants and shall advise the chancellor on the form, content, and methodology of the training program. Funds shall be paid monthly to the foster parent training program until the maximum amount of funds authorized to be expended for that program is expended. No more than 10 percent or seventy-five thousand dollars ($75,000) of these moneys, whichever is greater, shall be used for administrative purposes; of the 10 percent or seventy-five thousand dollars ($75,000), no more than ten thousand dollars ($10,000) shall be expended to reimburse the State Department of Social Services for its services pursuant to this paragraph.

(d) Beginning with fiscal year 1983–84, and each fiscal year thereafter, after all allocations for foster parent training in community colleges have been made, any moneys remaining in the Foster Children and Parent Training Fund may be allocated for foster children services programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of the Education Code.

(e) The Controller shall transfer moneys from the Foster Children and Parent Training Fund to the Chancellor of the Community Colleges and the Superintendent of Public Instruction as necessary to fulfill the requirements of subdivisions (c) and (d).

After the maximum amount authorized in any fiscal year has been transferred to the Chancellor of the Community Colleges and the Superintendent of Public Instruction, the Controller shall transfer any remaining funds to the General Fund for expenditure for any public purpose.

(f) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 10. Section 15200.3 of the Welfare and Institutions Code is amended to read:

15200.3. (a) There is hereby appropriated out of any money in the General Fund not otherwise appropriated, to the fund known as the Support Enforcement Incentive Fund, from which the department shall make payments to the extent and as specified in subdivision (b) to counties on collections distributed on or after the effective date of this section, a state incentive of 7½ percent to be paid on amounts received for nonfederally funded foster care cases, including, but not limited to, collections made pursuant to Sections 903, 903.4, and 903.5. This incentive shall be paid on collections which are used to repay the state share of aid paid pursuant to this chapter which are not entitled to incentives pursuant to Sections 15200.1 and 15200.2.

(b) The state incentive provided in subdivision (a) for nonfederal

foster care cases collections shall only apply to those statewide collections distributed in a fiscal year in excess of the 1982–83 budget projection. From the excess, 7½ percent of collections for nonfederal foster care cases shall be set aside for payment of these incentives. At the end of the fiscal year, payment to each county of the incentive money shall be in proportion to the percentage of the total nonfederal cases support collections for the state which each county has distributed. The percentage incentive specified in subdivision (a) shall not exceed the total incentive provided by the state for federal foster care cases at any time but shall automatically be adjusted for any reductions. Any remaining funds shall be credited to offset expenditures for AFDC-FC.

(c) The Legislature finds and declares that the state incentive provided pursuant to this section is sufficient to reimburse counties for court and all other costs incurred through enforcement of parental liability in nonfederally funded foster care cases.

SEC. 11. Section 17 of Chapter 1276 of the Statutes of 1982 is repealed.

SEC. 12. It is the intention of the Legislature in making the amendments to Section 202 of the Welfare and Institutions Code proposed by this act to thereby express its findings that the obligation of parents to support their child is based on the common law and neither that obligation nor the obligation of any other person legally responsible for the support of the child is extinguished because of a change in the residence or custody of the child.

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 the necessity are:

In order to ensure continued funding of existing foster children services programs, consistent with the intent of the Legislature in enacting Chapter 1276 of the Statutes of 1982; and to insure reimbursement by relatives to counties for those costs of the care, support, and maintenance of minors who have been detained pursuant to an order of the juvenile court that are unrelated to the cost of incarceration, supervision, and treatment attributable to confinement; it is necessary that this act go into effect immediately.

CHAPTER 544

An act to amend Sections 70046.2, 73682, 73683, 73691, 73692, 73696, and 74956 of, the Government Code, relating to courts.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 70046.2 of the Government Code is amended to read:

70046.2. In Fresno County, each reporter shall be paid an annual salary established according to the following salary schedule:

Step 1. $25,974
Step 2. 27,274
Step 3. 28,626
Step 4. 30,056

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall advance one step annually upon the anniversary date of the employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court.

Each pro tempore reporter shall be paid ninety-nine dollars and ninety cents ($99.90) for a full-day on duty under order of the court. For purposes of receiving the above compensation, one or more of the following shall apply:

(1) The court has indicated in advance that the pro tempore assignment is for a full-day.

(2) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid fifty-nine dollars and ninety-four cents ($59.94) for one-half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half-day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full-day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of ninety-nine dollars and ninety cents ($99.90) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of ninety-nine dollars and ninety cents ($99.90) when, in the court's judgment, said rate is necessary to obtain pro tempore reporter services for the court.

In addition to the salary herein provided, each regularly employed reporter shall accrue and be entitled to receive sick leave benefits at

the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

In such county the fee required by Section 70053 shall be eleven dollars and fifty cents ($11.50).

SEC. 2. Section 73682 of the Government Code is amended to read:

73682. There shall be one clerk to be appointed by the judges of the court in the manner provided by law who shall be the clerk, administrator and secretary of court. He or she shall receive a salary at range 1219 of the Fresno County Salary Resolution effective October 11, 1982.

SEC. 3. Section 73683 of the Government Code is amended to read:

73683. (a) The clerk may appoint the following court personnel who shall receive a salary at the range indicated in the Fresno County Salary Resolution.

(1) One Assistant to Municipal Court Clerk-Conf. at salary range 646.

(2) One Administrative Secretary-Conf. at salary range 698.

(3) One Stenographer II-Conf. at salary range 472.

(4) One Stenographer I-Conf. at salary range 387.

(5) Three Chief Deputy Clerks at salary range 763.

(6) Eleven Court Clerks at salary range 623.

(7) Two Supervising Legal Process Clerks at salary range 691.

(8) Four Senior Legal Process Clerks at salary range 671.

(9) Ten Legal Process Clerks at salary range 623.

(10) Forty-seven Office Assistant III at salary range 475.

(11) Forty-seven Office Assistant II at salary range 429.

(12) Forty-seven Office Assistant I at salary range 359.

(b) Salary ranges indicated in paragraphs (1), (2) and (5) of subdivision (a) are effective October 11, 1982. Salary ranges indicated in paragraphs (3) and (4) and paragraphs (10) through (12) of subdivision (a) are effective September 10, 1982. Salary ranges indicated in paragraphs (6) through (9) of subdivision (a) are effective January 3, 1983.

(c) The clerk may appoint any combination of stenographers described in paragraphs (3) and (4) of subdivision (a) not to exceed a total of one, and may appoint any combination of the specified number of personnel indicated in each of paragraphs (5) through (12) of subdivision (a) not to exceed a total of 61.

(d) The clerk may appoint the following court personnel in the Clovis Branch who shall receive a salary at the range indicated in the Fresno County Salary Resolution.

(1) One Court Clerk at salary range 623.

(2) One Supervising Legal Process Clerk at salary range 691.

(3) Two Legal Process Clerks at salary range 623.
(4) Six Office Assistants III at salary range 475.
(5) Six Office Assistants II at salary range 429.
(6) Six Office Assistants I at salary range 359.

(e) Salary ranges indicated in paragraphs (1) through (3) of subdivision (d) are effective January 3, 1983. Salary ranges indicated in paragraphs (4) through (6) of subdivision (d) are effective September 10, 1982.

The clerk may appoint any combination of the specified number of personnel indicated in each of paragraphs (2) through (6) of subdivision (d) not to exceed a total of six.

SEC. 4. Section 73691 of the Government Code is amended to read:

73691. A majority of the judges may appoint eight full-time court reporters to serve at the pleasure of the judges and to be paid an annual salary established according to the following salary schedule:

Step 1. $25,974
Step 2. 27,274
Step 3. 28,626
Step 4. 30,056

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of such employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court. Each such reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

SEC. 5. Section 73692 of the Government Code is amended to read:

73692. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the section for reporting testimony and proceedings the official reporters pro tempore shall be paid in accord with the following:

Each pro tempore reporter shall be paid ninety-nine dollars and ninety cents ($99.90) for a full-day on duty under order of the court. For purposes of receiving the above compensation, one or more of

the following shall apply:

(1) The court has indicated in advance that the pro tempore assignment is for a full-day.

(2) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid fifty-nine dollars and ninety-four cents ($59.94) for one-half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half-day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full-day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of ninety-nine dollars and ninety cents ($99.90) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of ninety-nine dollars and ninety cents ($99.90) when, in the court's judgment, said rate is necessary to obtain pro tempore reporter services for the court.

The above payments shall upon order of the court be a charge against the general fund of the county.

SEC. 6. Section 73696 of the Government Code is amended to read:

73696. In order to equalize the compensation of court reporters of the municipal and superior court with compensation paid to other county employees, upon recommendation of the judges of either the municipal or superior courts, and with approval of the Board of Supervisors of the County of Fresno, the court reporters of such courts may be paid additional compensation not exceeding 25 percent of the amounts provided for in Sections 70046.2, 73691 and 73692. Such increases may be made operative at the same time as the higher compensation becomes operative for other positions within the County of Fresno. Any pay increase authorized by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 6.5. Section 74956 of the Government Code is amended to read:

74956. (a) There shall also be the following court employee positions, whose numbers and salary range on the standard salary schedule of the County of Napa shall be as specified:

Position title	Number of positions	Salary range
Assistant clerk of the court	1	B089
Supervising court clerk	2	B048
Senior municipal court clerk	2	A129
Municipal court clerk	1	A109
Account clerk III	1	A109
Deputy clerk III	5	A089
Deputy clerk II - interpreter	1	A089
Deputy clerk II	2	A069

(b) Each such person employed on the effective date of this article in the office of the clerk of the municipal court shall receive credit for prior continuous service in office, including service in a court superseded upon the establishment of the municipal court.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 545

An act to amend Section 20041 of the Business and Professions Code, relating to franchises.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 20041 of the Business and Professions Code is amended to read:

20041. The provisions of this chapter shall apply only to franchises granted or renewed on or after January 1, 1981 or to franchises of an indefinite duration which may be terminated by the franchisee or franchisor without cause.

CHAPTER 546

An act to amend Sections 82530 and 82542 of the Education Code, relating to education.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to guarantee public access to community college facilities, while at the same time acknowledging the limited resources of community college districts. While there are many circumstances under which community college districts should not charge the organizations listed in subdivision (a) of Section 82542 of the Education Code any fee for the use of community college facilities, the Legislature recognizes that when the use of community college facilities results in significant costs, community college districts should be able to recover some or all of those costs from those organizations. In deciding when to recover costs from those organizations pursuant to subdivision (b) of Section 82542 of the Education Code, the community college district should consider not only the nature of the organization and its ability to pay, but also the frequency of the use and the cumulative burden which this may place upon the community college district.

SEC. 2. Section 82530 of the Education Code is amended to read:

82530. The governing board of any community college district may grant the use of college facilities or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article.

The governing board of any community college district may grant the use of college facilities or grounds to any church or religious organization for the conduct of religious services for temporary periods where such church or organization has no suitable meeting place for the conduct of such services upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article. The governing board shall charge the church or religious organization using such property for the conduct of religious services a fee as specified in subdivision (d) of Section 82542.

SEC. 3. Section 82542 of the Education Code is amended to read:

82542. (a) Except as provided in subdivision (b), the governing board of any community college district shall grant without charge the use of any college facilities or grounds under its control, pursuant to the requirements of this article, when an alternative location is not available, to nonprofit organizations and clubs and associations organized for general character building or welfare purposes, such as:

(1) Student clubs and organizations.

(2) Fundraising entertainments or meetings where admission fees charged or contributions solicited are expended for the welfare

of the students of the district.

(3) Parent-teachers' associations.

(4) School-community advisory councils.

(5) Camp fire girls, girl scout troops, and boy scout troops.

(6) Senior citizens' organizations.

(7) Other public agencies.

(8) Organizations, clubs, or associations organized for cultural activities and general character building or welfare purposes (such as folk and square dancing).

(9) Groups organized for the purpose specified in Section 82536.

(b) The governing board may charge those organizations and activities listed in subdivision (a) an amount not to exceed the following:

(1) The cost of opening and closing the facilities, if no college employees would otherwise be available to perform that function as a part of their normal duties.

(2) The cost of a college employee's presence during the organization's use of the facilities, if the governing board determines that the supervision is needed, and if that employee would not otherwise be present as part of his or her normal duties.

(3) The cost of janitorial services, if the services are necessary, and would not have otherwise been performed as part of the janitor's normal duties.

(4) The cost of utilities directly attributable to the organization's use of the facilities.

(c) The governing board may charge an amount not to exceed its direct costs or not to exceed fair rental value of college facilities and grounds under its control, and pursuant to the requirements of this article, for activities other than those specified in subdivision (a). Each governing board which decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs and which activities shall be charged an amount not to exceed fair rental value.

(d) The governing board of any college district which authorizes the use of college facilities or grounds for the purpose specified in the second paragraph of Section 82530 shall charge the church or religious denomination an amount at least equal to the fair rental value of the facilities or grounds.

(e) As used in this section, "direct costs" to the district for the use of college facilities or grounds means those costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid community college district employees necessitated by the organization's use of the college facilities and grounds of the district.

(f) As used in this section, "fair rental value" means the direct costs to the district, plus the amortized costs of the college facilities or grounds used for the duration of the activity authorized.

CHAPTER 547

An act to amend Section 69273 of the Education Code, relating to education.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 69273 of the Education Code is amended to read:

69273. There is hereby created a Health Manpower Policy Commission. The commission shall be composed of 10 members who shall serve at the pleasure of their appointing authorities:

(a) Eight members appointed by the Governor, as follows: one representative of the University of California medical schools, from a nominee or nominees submitted by the University of California; one representative of the private medical or osteopathic schools accredited in California from individuals nominated by each of these schools; one representative of practicing family physicians; one representative who is a practicing osteopathic physician or surgeon and who is board certified in either general or family practice; one representative of undergraduate medical students in a family practice program or residence in family practice training; one representative of trainees in a primary care physician's assistant program or a practicing physician's assistant; one representative of trainees in a primary care nurse practitioners program or a practicing nurse practitioner; and one representative of the Office of Statewide Health Planning and Development, from nominees submitted by the office director.

(b) Two consumer representatives of the public who are not elected or appointed public officials, one appointed by the Speaker of the Assembly and one appointed by the Chairman of the Senate Rules Committee.

(c) The Chief of the Health Professions Development Program in the Office of Statewide Health Planning and Development, or the chief's designee, shall serve as executive secretary for the commission.

CHAPTER 548

An act to amend Section 11517 of the Government Code, relating to administrative adjudication.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 11517 of the Government Code is amended to read:

11517. (a) If a contested case is heard before an agency itself the hearing officer who presided at the hearing shall be present during the consideration of the case and, if requested, shall assist and advise the agency. Where a contested case is heard before an agency itself, no member thereof who did not hear the evidence shall vote on the decision.

(b) If a contested case is heard by a hearing officer alone, he or she shall prepare within 30 days after the case is submitted a proposed decision in such form that it may be adopted as the decision in the case. The agency itself may adopt the proposed decision in its entirety, or may reduce the proposed penalty and adopt the balance of the proposed decision.

Thirty days after receipt of the proposed decision, a copy of the proposed decision shall be filed by the agency as a public record and a copy shall be served by the agency on each party and his or her attorney.

(c) If the proposed decision is not adopted as provided in subdivision (b), the agency itself may decide the case upon the record, including the transcript, with or without taking additional evidence, or may refer the case to the same hearing officer to take additional evidence. By stipulation of the parties, the agency may decide the case upon the record without including the transcript. If the case is assigned to a hearing officer he shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of such proposed decision shall be furnished to each party and his attorney as prescribed in subdivision (b). The agency itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present either oral or written argument before the agency itself. If additional oral evidence is introduced before the agency itself no agency member may vote unless he heard the additional oral evidence.

(d) The proposed decision shall be deemed adopted by the agency 100 days after delivery to the agency by the Office of Administrative Hearings, unless within that time the agency commences proceedings to decide the case upon the record, including the transcript, or without the transcript where the parties have so stipulated, or the agency refers the case to the hearing officer to take additional evidence. In a case where the agency itself hears the case, the agency shall issue its decision within 100 days of submission of the case. In a case where the agency has ordered a transcript of the proceedings, the 100-day period shall begin upon delivery of the transcript. If the agency finds that a further delay is required by special circumstances, it shall issue an order delaying the decision for no more than 30 days and specifying the reasons

therefor. Such order shall be subject to judicial review pursuant to Section 11523.

(e) The decision of the agency shall be filed immediately by the agency as a public record and a copy shall be served by the agency on each party and his or her attorney.

CHAPTER 549

An act to amend Section 17538.5 of the Business and Professions Code, relating to consumer goods and services.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 17538.5 of the Business and Professions Code is amended to read:

17538.5. It is unlawful in the sale or offering for sale of consumer goods or services for any person conducting a mail order or catalog business in this state, and utilizing a post office box address or a street address representing a site used primarily for the receipt or delivery of mail or as a telephone answering service, to fail to disclose the legal name under which business is done and the complete street address from which business is actually conducted in all advertising and promotional materials, including order blanks and forms. 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. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 550

An act to amend Sections 53601 and 53635 of the Government Code, relating to funds of local agencies.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 30 percent of the agency's surplus money which may be invested pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are

organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commerical paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 1.5. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority

thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only

if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 30 percent of the agency's surplus funds which may be invested pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the

agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

SEC. 2.5. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks,

the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations

of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 53601 of the Government Code proposed by both this bill and AB 323. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 53601 of the Government Code, and (3) this bill is enacted after AB 323, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 53635 of the Government Code proposed by both this bill and AB 323. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 53635 of the Government Code, and (3) this bill is enacted after AB 323, in which case Section 2 of this bill shall not become operative.

CHAPTER 551

An act to amend Sections 11400, 11401, 11402, 11403, 11404, 11405, 13920, 13921, and 13922 of, to add Section 11463.5 to, to repeal Sections 11252.5 and 11254 of, and to amend and repeal Section 11406.5 of, the Welfare and Institutions Code, and to repeal Section 10 of Chapter 1193 of the Statutes of 1980, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 11252.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 11254 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 11400 of the Welfare and Institutions Code is amended 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) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "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.

(f) "Group home" means a nondetention privately operated 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.

(g) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(h) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(i) "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 to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(j) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(k) "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.

(*l*) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(m) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 4. Section 11401 of the Welfare and Institutions Code is amended 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, to a licensed adoption agency, or the department, or the parental rights of either or both of his or her parents have been terminated after an action under the Civil Code has been brought by a licensed adoption agency or the department, provided that the licensed adoption agency or the department, if responsible for placement and care, provides to such children all services as required by the department to children in foster care.

(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. 5. Section 11402 of the Welfare and Institutions Code is amended to read:

11402. In order to be eligibile for AFDC-FC, a child must be placed in one of the following:

(a) The home of a relative, provided such home has been documented by the social worker or probation officer as being suited to the needs of the child and the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) The licensed family home of a nonrelative.

(c) 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.

(d) The home of a nonrelated legal guardian.

(e) 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.

(f) An exclusive-use home.

SEC. 6. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. A child who is in foster care and receiving aid pursuant to this chapter and who is attending high school or the equivalent level of vocational or technical training on a full-time basis 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, remains otherwise eligible for AFDC-FC payments, and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis and the child may reasonably be expected to complete the educational or training program before his or her 19th birthday. Aid shall be provided such an individual 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.

SEC. 7. Section 11404 of the Welfare and Institutions Code is amended 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 in accordance with departmental regulations:

(1) For children removed after October 1, 1983, document that it provided preplacement preventive services to the child prior to the child's placement in foster care, and document why provisions of these services were not successful in maintaining the child in his or her home, unless it is documented that these services were not provided due to:

(A) Either the voluntary relinquishment of the child by one or both parents or court action declaring a child free from the custody and control of one or both parents.

(B) The child's residence with a nonrelated legal guardian.

(2) Develop a written assessment of the reasons necessitating the child's placement in foster care and the treatment needs of the child while in foster care to be updated by the agency no less frequently than once every six months; and

(3) Develop a case plan for the child within 30 days of placement.

(4) Ensure that services are provided to return the child to his or her own home or establish an alternative permanent placement for the child if return home is not possible or is inappropriate.

SEC. 8. Section 11405 of the Welfare and Institutions Code is amended 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 a written assessment of the child's needs;

(2) Updating the assessment no less frequently than once every six months;

(3) Carrying out the case plan developed by the county.

(b) When AFDC-FC is applied for on behalf of a child living with a nonrelated legal guardian the county welfare department shall:

(1) Develop a written assessment of the child's needs;

(2) Update such assessments no less frequently than once every six months;

(3) Develop a case plan that specifies how the problems identified in the assessment 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. 9. Section 11406.5 of the Welfare and Institutions Code is amended to read:

11406.5. (a) To the extent federal funds are available, the department shall operate 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) This section shall remain in effect only until July 1, 1988, and as of this date is repealed unless a later enacted statute, which is chaptered before July 1, 1988, deletes or extends this date.

SEC. 10. Section 11463.5 is added to the Welfare and Institutions Code, to read:

11463.5. Notwithstanding the provisions of Section 11463, a homefinding agency funded under the AFDC-FC program shall be eligible for establishment of a new rate of payment for services, upon approval by the county welfare department, if the facility can document that a new rate is needed for a new program which does all of the following:

(a) Serves an entirely different population at an entirely different level of service than that currently served by the provider's existing program, and

(b) Either is located in a different facility from current programs operated by the provider or current programs operated by the provider are discontinued in favor of a new program, and

(c) Is clearly and exclusively serving a county need, developed in consultation with county officials.

In accordance with standards which shall be developed by the department, the county in which the new facility is located shall substantiate that these criteria have been met and certify that General Fund costs shall not increase as a result of the new rate of payment. The department shall have authority to audit the county certification for final reimbursement. The new rate, if approved, shall only apply to a provider's new program and not to previously existing programs operated by that provider.

This section shall be effective for payments made on or after October 1, 1982.

This section shall remain in effect only for 30 days from its effective date and as of such date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 11. 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 four hundred five dollars ($405) per month and the amount so established shall be subject to the provisions set forth in Section 12201. However, no cost-of-living adjustment shall be provided for the period from July 1, 1982, to September 30, 1982, inclusive, except to the extent funds may be provided therefor by the Budget Act of

1982.

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. 12. 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-nine dollars ($59) per month and that the range of amounts so established shall be subject to the provisions set forth in Section 12201. However, no cost-of-living adjustment shall be provided for the period from July 1, 1982, to September 30, 1982, inclusive, except to the extent funds may be provided therefor by the Budget Act of 1982.

SEC. 13. 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 five hundred ten dollars ($510) 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. 14. Section 10 of Chapter 1193 of the Statutes of 1980 is repealed.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for California to continue to utilize federal emergency assistance funds it is necessary for this act to take effect immediately.

CHAPTER 552

An act to amend Section 1727 of the Health and Safety Code, relating to health services.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 1727 of the Health and Safety Code is amended to read:

1727. As used in this chapter, the following terms have the meanings set forth in this section:

(a) "State department" means the State Department of Health Services.

(b) "Home health agency" means a public agency or private organization, or a subdivision of any such agency or organization, which—

(1) Is primarily engaged in providing skilled nursing services and other therapeutic services to patients in the home on a part-time or intermittent basis, or, for the sole purpose of providing in-home medical services pursuant to subdivision (t) of Section 14132 of the Welfare and Institutions Code, on any basis, including but not limited to a licensed hospital, sanatorium, nursing or convalescent home or local health department which incidentally to its primary function provides health services in the home environment;

(2) Has policies, established by a group of professional personnel, including one or more physicians and one or more public health nurses as certified by the state department pursuant to Section 600 of this code, to govern the services which it provides, and provides for supervision of such services by a physician or registered nurse, provided that skilled nursing services shall be supervised by a registered nurse. Such policies shall be written and include, but not be limited to, those concerning patient care, personnel, training and indoctrination, supervision and program evaluation;

(3) Maintains clinical records on all patients, including a plan of treatment prescribed by the patient's physician; and

(4) Meets such other standards, rules and regulations adopted by the state department.

(c) "Skilled nursing services" means those services ordinarily provided by a registered nurse or licensed vocational nurse in the home environment to patients under a plan of treatment prescribed by the patient's physician who is licensed to practice medicine in the state.

(d) "Other therapeutic services" includes but is not limited to physical, speech or occupational therapy; medical social services; and home health aide services.

(e) "Home health aide services" means those services ordinarily provided by an unlicensed person, including a practical nurse, who is employed by a home health agency to provide supportive services to the patient in the home under the supervision of a registered nurse or a physical, speech, or occupational therapist.

CHAPTER 553

An act to add and repeal Section 786 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 786 is added to the Public Utilities Code, to read:

786. (a) On or before March 1, 1984, and annually thereafter, every telephone corporation shall issue to each of its residential subscribers, in a manner and form approved by the commission, a listing of the residential telephone services it provides, the rates or charges for those services, and the state or federal regulatory agency or agencies responsible for regulation of those services.

(b) Every charge imposed on business or residential telephone subscribers in response to rules or regulations of the Federal Communications Commission shall be shown separately from other charges on a subscriber's billing statement. Every telephone corporation operating in this state shall do either of the following:

(1) Identify these charges, by asterisk or other means, with the following phrase:

THIS CHARGE IS (or THESE CHARGES ARE) IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

(2) Include in the subscriber's billing statement a listing of the total charges imposed pursuant to tariff of the Federal Communications Commission identified with the following phrase:

TOTAL CHARGES IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

The billing statement shall also provide the address and telephone number of the Federal Communications Commission to which inquiries may be directed.

(c) The commission shall, by rule or order, specify methods for compliance with this section, which shall include all of the following:

(1) An explanation of the configuration of telecommunications services in California following implementation of the final decision of the United States District court for the District of Columbia circuit in the case of United States v American Telephone and Telegraph Company (552 F. Supp. 131) decided on August 19, 1982.

(2) A general description of the interexchange and intraexchange services provided by the telephone corporation or telecommunications provider issuing the explanation, how those services may be obtained, and a notice that other providers are available.

(3) A description of billing charges which may appear on the

telephone corporation's or the telecommunications provider's billing statements.

(4) Procedures the subscribers, including subscribers equipped with telephone devices for the handicapped, may follow to protest items billed to the subscriber, and how to contact the telephone corporation or the telecommunications provider concerning those charges.

(d) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered on January 1, 1987, deletes or extends that date.

CHAPTER 554

An act to amend Section 987.567 of the Military and Veterans Code, relating to veterans' farm and home purchase, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 987.567 of the Military and Veterans Code is amended to read:

987.567. (a) Notwithstanding Section 987.85 or the preferences established by Section 987.56, the department shall set aside for a period of 18 months the sum of ten million dollars ($10,000,000) from the proceeds of the first sale of general obligation bonds after January 1, 1983, for the purpose of making home improvement loans pursuant to Section 988.2 to veteran purchasers who have a service-connected disability rating of at least 10 percent established by the Veterans' Administration of the United States. These loans may be made to veterans purchasing farms and homes under the Veterans' Farm and Home Purchase Act of 1943 (Article 3 (commencing with Section 984) of this chapter) as well as to veterans purchasing farms and homes under this article. The interest rate on these loans shall be established pursuant to Section 987.87. Any amounts under this section remaining unused after 18 months shall revert to the Veterans' Farm and Home Building Fund of 1943 and be used for purposes of this article.

(b) In implementing the provisions of this section, the department shall comply with the requirements of any federal law or regulation on mortgage subsidy bonds to the extent necessary to maintain the tax exempt status of the bonds so sold and used for purposes of this section.

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 enable all eligible disabled veteran purchasers to participate in the home improvement program provided by this act and to put any funds remaining to timely and appropriate use, it is necessary for this act to become effective immediately.

CHAPTER 555

An act to amend Sections 66528, 66535, 66537, 66538, 66561, 66563, 66564, 66565, 66566, 66569, 66572, 66573, 66574, 66575, 66578, 66580, 66585, 66601, 66605, 66621, 66626, 66661, 66682, and 66701 of, to repeal Sections 66606 and 66627 of, and to repeal and add Sections 66561.5 and 66625 of, the Food and Agricultural Code, relating to iceberg lettuce, and making an appropriation therefor.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 66528 of the Food and Agricultural Code is amended to read:

66528. "Districts" consist of:

District 1. (Blythe area) Riverside and San Bernardino Counties.

District 2. (Imperial Valley area) Imperial County.

District 3. (Oxnard-Santa Maria area) Los Angeles, Orange, San Diego, San Luis Obispo, Santa Barbara, and Ventura Counties.

District 4. (Salinas-Watsonville area) Monterey, San Benito, Santa Cruz, Santa Clara, San Mateo, San Francisco, Marin, Sonoma, Mendocino, Humboldt, Alameda, and Del Norte Counties.

District 5. (San Joaquin-Sacramento Valley area) Sacramento, Kern, Fresno, San Joaquin, Stanislaus, Tulare, King, Merced, Madera, Contra Costa, Yolo, Solano, Napa, Colusa, Sutter, Yuba, Glenn, Butte Counties, and all other counties of California not included in Districts 1, 2, 3, and 4.

The number of districts and the boundaries of any district may be changed by a two-thirds vote of the commission when necessary to maintain similar total production among the districts and to ensure proper representation of producers. District boundaries are not required to coincide with county boundaries.

SEC. 2. Section 66535 of the Food and Agricultural Code is amended to read:

66535. "Handler," unless otherwise specified, has the same meaning as grower-handler as defined in Section 66532 and secondary handler as defined in Section 66542.5. "Handler" also means any person who engages in the marketing of iceberg lettuce on behalf of a grower, whether as an owner, agent, employee, broker, or commission merchant or otherwise.

SEC. 3. Section 66537 of the Food and Agricultural Code is amended to read:

66537. "Market" or "marketing" means to sell, ship, or otherwise distribute iceberg lettuce in the commercial channels of trade in a manner consistent with this chapter.

SEC. 4. Section 66538 of the Food and Agricultural Code is amended to read:

66538. "Marketing season" has the same meaning as fiscal year.

SEC. 5. Section 66561 of the Food and Agricultural Code is amended to read:

66561. There is hereby created the California Iceberg Lettuce Commission to be thus known and designated. The commission is composed of 17 members of which 14 are handlers as defined in Section 66532, two are members-at-large, and one is a person who is neither a producer nor a handler and who is appointed specifically to represent the public generally.

SEC. 6. Section 66561.5 of the Food and Agricultural Code is repealed.

SEC. 7. Section 66561.5 is added to the Food and Agricultural Code, to read:

66561.5. The public member is appointed to the commission by the director from nominees recommended by the commission.

SEC. 8. Section 66563 of the Food and Agricultural Code is amended to read:

66563. The commission may appoint a president, a treasurer, a secretary, and any other necessary personnel to carry out this chapter. The compensation of each officer shall be fixed by the commission. No officer shall be a member of the commission.

SEC. 9. Section 66564 of the Food and Agricultural Code is amended to read:

66564. Each member of the commission is required to be a citizen and a resident of this state. Additionally:

(a) Each handler member is required to be currently engaged in the handling of iceberg lettuce. Not more than two handler members shall be employed by, or have a proprietary interest in, the same corporation, firm, partnership, association, or business organization. However, not more than one handler member in any one district shall be so employed or have such a proprietary interest.

(b) Each member-at-large is required to be a person, whether or not engaged in the production or marketing of iceberg lettuce, whose qualifications are appropriate to the needs of the commission. The person may be a handler who is not appointed as a handler member but who nevertheless is qualified under subdivision (a) to serve as a handler member.

(c) The person appointed to represent the public generally is required to be any person who is neither a producer nor a handler, whose qualifications are appropriate to the needs of the commission.

(d) The qualifications of members of the commission, as set forth in this section, shall continue during their term of office.

SEC. 10. Section 66565 of the Food and Agricultural Code is amended to read:

66565. Each of the five districts is represented by the following number of handlers:

(a) District 1 has one member.

(b) District 2 has three members.

(c) District 3 has three members.

(d) District 4 has five members.

(e) District 5 has two members.

SEC. 11. Section 66566 of the Food and Agricultural Code is amended to read:

66566. The regular term of office for handler members of the commission is three years, commencing March 1 of any year in which they are appointed, and, except with respect to the first of the members, each serves as follows:

(a) District 1: one serves for three years.

(b) District 2: one serves for one year, one serves for two years, and one serves for three years.

(c) District 3: two serve for two years and one serves for three years.

(d) District 4: one serves for one year, two serve for two years, and two serve for three years.

(e) District 5: one serves for two years and one serves for three years.

SEC. 12. Section 66569 of the Food and Agricultural Code is amended to read:

66569. Each member-at-large and the public member are persons nominated for appointment by the handler members of the commission and appointed by the director. Any nomination requires a plurality of votes cast by the handler members. When any positions later become vacant for any reason or cause, proceedings to fill the vacancy are the same as for the initial appointments and are undertaken at the next meeting of the commission after the position is vacated.

SEC. 13. Section 66572 of the Food and Agricultural Code is amended to read:

66572. The commission or the director, in preparing a list of handlers to be used under this chapter, may omit from the list any person who functions as a handler, but who handles less than 250,000 pounds of iceberg lettuce during a marketing season. Any person so omitted from the list is not subject to this chapter, including the payment of any assessments, and is not be qualified as a handler under this chapter. Any person omitted from a list pursuant to this section may be included on any subsequent list if found qualified as a handler at the time of preparing the list.

SEC. 14. Section 66573 of the Food and Agricultural Code is amended to read:

66573. Lists of handlers may be obtained whenever and in the manner that the director deems necessary or advisable, including for

the purpose of checking, comparing, or correcting the lists. The handler list shall, subject to any proper corrections, be final and conclusive in making determinations relative to the number and qualifications of handlers entitled to vote for commissioners.

SEC. 15. Section 66574 of the Food and Agricultural Code is amended to read:

66574. Any handler, whose name does not appear on the director's list of handlers, but who is otherwise qualified to participate in the commission activities, may have his or her name established thereon by filing with the director a signed statement advising that he or she handled iceberg lettuce in the immediately preceding marketing season and giving the quantity handled in each district and the quantity introduced into trade.

SEC. 16. Section 66575 of the Food and Agricultural Code is amended to read:

66575. Upon establishment of lists of handlers, the director shall call meetings of handlers in each district for the purpose of nominating persons to be appointed to the office of commissioner. At each district meeting for the nomination of members, the director, or an authorized representative thereof, shall preside and receive nominations and, at the conclusion of each meeting, shall announce the names of persons nominated at the meeting and the time, the manner, and instructions for voting by mail. Thereafter, within 10 days after the final district meeting, the director shall mail to all handlers ballots for the election of members in the respective districts, with instructions for voting by mail. All ballots are required to be returned to the director and mailed for delivery within 10 days after issuance by the director.

SEC. 17. Section 66578 of the Food and Agricultural Code is amended to read:

66578. The commission shall compile and maintain a list of qualified handlers.

SEC. 18. Section 66580 of the Food and Agricultural Code is amended to read:

66580. If the position of a handler member becomes vacant due to failure to qualify, resignation, disqualification, death, or for any other reason, the position shall be filled by a qualified handler who is nominated by the handler members of the commission and appointed by the director. Handlers to be considered for appointment to fill any such vacancy shall, if possible, be handlers whose names are submitted for consideration by the remaining handler members of the district in which the vacancy occurs. Any nomination requires a plurality of votes cast by the handler members. The appointment to a vacated handler member position is for the unexpired term of office. Any vacancy of a handler member position occurring within six months prior to a regular district election may remain vacant until the next regular election.

SEC. 19. Section 66585 of the Food and Agricultural Code is amended to read:

66585. The powers and duties of the commission include, but are not limited to, all of the following:

(a) To elect a chairman and, from time to time, any other officers that it may deem advisable and to delegate to these officers any administrative duties that may appear advisable.

(b) To adopt and, from time to time, alter, rescind, modify, and amend all proper and necessary administrative bylaws, rules, regulations, and orders for the exercise of its powers and the performance of its duties, including rules for regulation of appeals from any bylaw, rule, regulation, or order of the commission.

(c) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary, proper, or advisable to effectuate this chapter.

(d) To employ a person to serve, at the pleasure of the commission, as president and chief executive officer of the commission and other personnel, including legal counsel, that is necessary to carry out this chapter.

(e) The Attorney General shall aid and assist the commission upon its request and shall undertake judicial proceedings requested by the commission to undertake on its behalf.

(f) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create any liabilities and borrow any funds in advance of receipt of assessments that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(g) To keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts are subject to an annual private audit by an auditing firm selected by the commission and approved by the director. The audit shall be made a part of an annual report to all handlers of iceberg lettuce, copies of which shall also be submitted to the Legislature. In addition, the director may, as he or she determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(h) To investigate and prosecute civil violations of this chapter and to file complaints with appropriate law enforcement agencies or officers for criminal violations of this chapter.

(i) To maintain or expand the demand for iceberg lettuce nationally and abroad by means of promotional, educational, and similar programs and activities, including, but not limited to, the advertising and publicizing of iceberg lettuce in all forms of media, providing merchandising services and materials, conducting educational meetings and demonstrations, and sponsoring or participating in appropriate trade and food conferences.

(j) To undertake market, transportation, and other pertinent studies and surveys; to present facts to, and negotiate with, private and governmental bodies and agencies on matters affecting sales and distribution and other concerns of iceberg lettuce production and

marketing; and to undertake any other similar activities which the commission may determine appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for iceberg lettuce.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements that the commission may deem necessary for the promotion of the sale of iceberg lettuce.

(*l*) To conduct, or contract with others to conduct, research as authorized by this chapter. In connection with this research, the commission may accept contributions of, or may match, private, state, or federal funds that may be available for these purposes, and may employ or make contributions of funds to other persons or state or federal agencies conducting this research.

(m) To determine, subject to the limitations provided in Section 66621, not later than March 31 of each year, the assessment for the following 12-month period beginning April 1 and ending March 31.

(n) To publish and distribute without charge bulletins or other communications for dissemination of information relating to the iceberg lettuce industry to producers, shippers, and handlers.

(o) To enter into cost-sharing advertising and sales promotion with organizations representing other products, and with producers, handlers, and other persons involved in marketing iceberg lettuce, either individually or collectively, who are not subject to this chapter.

SEC. 20. Section 66601 of the Food and Agricultural Code is amended to read:

66601. The provisions of this chapter, except as necessary to conduct the vote, shall not become operative until the director finds in a referendum conducted by him or her that not less than 40 percent of the handlers, as defined in Section 66532 and as determined in accordance with Section 66573, have participated and that either of the following occurs:

(a) Sixty-five percent or more of the handlers voting marketed at least a majority of the total quantity of iceberg lettuce marketed in the preceding marketing season by all of the handlers who voted in the referendum and they voted in favor of this chapter.

(b) A majority of the handlers voting marketed 65 percent or more of the total quantity of iceberg lettuce marketed in the preceding marketing season by all the handlers who voted in referendum and they voted in favor of this chapter.

SEC. 21. Section 66605 of the Food and Agricultural Code is amended to read:

66605. If the director finds that a favorable vote has not been given under Section 66601, he or she shall so certify to the commission and shall declare this chapter inoperative.

SEC. 22. Section 66606 of the Food and Agricultural Code is repealed.

SEC. 23. Section 66621 of the Food and Agricultural Code is

amended to read:

66621. (a) There is hereby levied and imposed upon all iceberg lettuce harvested and marketed in each fiscal year, an assessment to be paid by the handlers of the lettuce and fixed by not less than 10 of the 14 handler members of the commission at the amount determined by these commissioners as reasonably necessary to pay all obligations incurred, or expected to be incurred, in accordance with this chapter and as reasonably necessary to carry out the objects and purposes of this chapter.

(b) The assessment shall not exceed two and one-half cents ($0.025) per standard carton of packed iceberg lettuce or five cents per hundred pounds ($0.05 per cwt.) of iceberg lettuce prepared for market or equivalent basis, on all iceberg lettuce delivered by producers and received by handlers.

(c) A fee greater than the amount provided for in subdivision (b) may not be charged unless and until a greater fee is approved by handlers, as defined in Section 66532, under the procedures in Section 66601.

(d) There shall be exempt from the assessments all shipments of 150 pounds or less of iceberg lettuce sold or shipped by a handler directly to the consumer.

SEC. 24. Section 66625 of the Food and Agricultural Code is repealed.

SEC. 25. Section 66625 is added to the Food and Agricultural Code, to read:

66625. Assessments provided for in this article are levied upon the handler first marketing the iceberg lettuce being assessed. The handler is a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission. Failure of a handler to collect the assessment does not exempt the handler from liability for payment.

SEC. 26. Section 66626 of the Food and Agricultural Code is amended to read:

66626. Every handler is primarily and personally liable for the payment of an assessment. Any handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 2 percent interest per month on the unpaid balance. The penalty and interest are required to be paid to the commission and are available for expenditure in the same manner as an assessment.

SEC. 27. Section 66627 of the Food and Agricultural Code is repealed.

SEC. 28. Section 66661 of the Food and Agricultural Code is amended to read:

66661. Upon the finding of nine of the members of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended.

However, the suspension shall not become effective until the expiration of the fiscal year then current. The director shall, upon receipt of the recommendation, or may, after holding a public hearing to review a petition that was filed with him or her requesting the suspension, signed by 20 percent of the handlers as defined in Section 66532, cause a vote among handlers as defined in Section 66532, to determine if the operation and the operations of the commission should be suspended, and shall establish a period, which shall not be less than 30 nor more than 90 days after receipt by the director of the petition. The director may prescribe any additional procedure that may be necessary to conduct the referendum.

SEC. 29. Section 66682 of the Food and Agricultural Code is amended to read:

66682. In any civil or criminal action or proceeding for violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with this chapter, or a rule or regulation of the commission issued pursuant thereto, and in furtherance of purposes and provisions thereof, shall be a complete defense to the action or proceeding.

SEC. 30. Section 66701 of the Food and Agricultural Code is amended to read:

66701. Between January 1 and March 31 of each fifth calendar year commencing with the year 1982, the director shall cause a vote to be conducted among handlers, as defined in Section 66532, in the manner prescribed in Section 66601 to determine whether the operations of this chapter shall be reapproved and continued effective. If a favorable vote has been given, the director shall so certify and announce to the commission and all provisions of this chapter shall remain in effect. If the director finds that a favorable vote has not been given, he or she shall certify and announce that fact to the commission, and he or she shall declare the operation of this chapter and the commission suspended upon the expiration of the current fiscal year ending March 31. Thereupon, the operations of the commission shall be wound up and funds distributed in the manner provided in Sections 66663 and 66664. No bond or security is required for any referendum.

CHAPTER 556

An act to amend Section 33033 of the Education Code, relating to schools.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 33033 of the Education Code is amended to read:

33033. The State Board of Education may:

(a) Establish at the request of the governing authorities of any state institution, courses of instruction for the inmates of the institution.

(b) Examine under arrangements with the governing authorities of the institution the progress of students taking the courses and grant high school diplomas to students meeting the requirements for high school graduation. Certificates of completion previously awarded by the State Board of Education to students who, at the time of the award of a certificate of completion, met the requirements for high school graduation, shall be deemed for all purposes to be the equivalent of diplomas of high school graduation.

CHAPTER 557

An act to amend Section 1917.067 of, and to add Chapter 6 (commencing with Section 1917.210) to Title 4 of Part 4 of Division 3 of, the Civil Code, relating to loans of E.R.I.S.A. Pension Funds.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 1917.067 of the Civil Code is amended to read:

1917.067. Lenders shall be exempt from the usury provisions of Article XV of the California Constitution with respect to shared appreciation loans made pursuant to this chapter.

This section is declaratory of existing law.

SEC. 2. Chapter 6 (commencing with Section 1917.210) is added to Title 4 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 6. LOANS OF E.R.I.S.A. PENSION FUNDS

1917.210. Each pension fund or retirement system which is subject to the Employee Retirement Income Security Act of 1974 (P.L. 93-406), shall not be required to obtain any license or certificate in order to provide funds for any type of loan transaction permitted by law.

1917.220. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligation of, loan made by, or forbearance of, any pension fund or retirement system which is subject to the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

This section creates and authorizes pension funds or retirement systems subject to the Employee Retirement Income Security Act of 1974 (P.L. 93-406) as an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

CHAPTER 558

An act to amend Section 31452.5 of, to add Section 31484.7 to, to add and repeal Section 31581.2 of, and to add Article 1.7 (commencing with Section 31499) to Chapter 3 of Part 3 of Division 4 of Title 3 of, the Government Code, relating to the County Employees Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 31452.5 of the Government Code is amended to read:

31452.5. The board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter, authorizing the treasurer to deduct a specified amount from the retirement allowance or benefit payable to any retired member or beneficiary of a retired member for the purpose of paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer, or for any prepaid group medical or hospital service plan, or both, or for any dental plan, approved by the board, for the benefit of the retired member or his dependents, or for the payment of premiums on national service life insurance or United States government converted insurance, or for the purchase of shares in or

the payment of money to any regularly chartered credit union, or for the payment of personal income taxes to the government of the United States or of the State of California, and each month shall draw his order in favor of the insurer, institution or credit union or government named in the written authorization for an amount equal to the deductions so authorized and made during the month. The board may charge a reasonable fee for the making of the deductions and payments and the fees shall be deposited in the county fund from which salaries are paid.

SEC. 2. Section 31581.2 is added to the Government Code, to read:

31581.2. The board of supervisors or the governing body of the district may, on recommendation of the board of retirement, agree to pay any portion of the contributions required to be paid by a member. All payments shall be in lieu of wages and shall be reported simply as normal contributions and shall be credited to member accounts.

The enactment of a resolution pursuant to this section adopting the recommendation of the board of retirement shall not create vested rights in any member. The board of supervisors or the governing body of the district may amend or repeal the resolution at any time, subject to the provisions of Sections 3504 and 3505, or any similar rule or regulation of the county or district.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 3. Section 31484.7 is added to the Government Code, to read:

31484.7. Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to such county or district through the adoption of an ordinance or resolution, such governing body may, at any time thereafter, adopt another ordinance or resolution terminating the applicability of such provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of such provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

The governing board of a county or district, prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions, shall provide written explanation of the effect and impact of such termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that such member has been fully informed regarding the effect of such termination, and understands that such termination of a provision or provisions is irrevocable. Such affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election. Employees who elect to have such provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the governing body.

Except as otherwise provided herein, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service. Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement. Any employee who has made an election whereby the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462 applied at the date of retirement regardless of previous service under the provisions of Section 31462.1. Any employee who has made an election whereby a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, specified by the governing body applied to all previous service at the date of retirement regardless of previous service under such other provision of Article 16.5 (commencing with Section 31870). Any employee making such election shall be refunded all moneys contributed by that employee for those benefits, and such employee shall be deemed to thereby have waived and relinquished any right to such automatic cost-of-living benefits.

A current employee who has elected to have the applicability of such provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution. Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

This section shall only be applicable to a county of the 25th class as described by Section 28046.

SEC. 4. Article 1.7 (commencing with Section 31499) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code,

to read:

Article 1.7. Alternative Plan for Counties of the 25th Class

31499. (a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 25th class as described by Section 28046, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.

(2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.

(3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.

(4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.

(5) Article 16.5 (commencing with Section 31870) of this chapter shall not be applicable.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 dealing with disability retirement, death benefits, and the requirement relating to the deposit of accumulated member contributions shall not be applicable.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Unless specifically otherwise provided therein, no amendment to this article enacted subsequent to the effective date of this article shall apply to any county or to the employees of any county unless

and until mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

31499.1. Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety membership.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age of 65.

(g) "Service" means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

Except as otherwise herein provided, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

31499.2. (a) There shall be no general members' contributions under the plan created by this article.

(b) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

31499.3. (a) Except as provided in Section 31499.7 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and shall not receive credit for that prior public service.

(b) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(c) For the purposes of subdivision (b) of Section 31499.4, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit which has been approved by the employer, shall not be considered an interruption of service. However, the period of time of unpaid leave shall not be considered as service in calculating the benefits otherwise provided under this article.

31499.4. (a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(d) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The ERA Factors set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance

amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31499.8.

(j) Notwithstanding subdivision (e) of Section 31499.4, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

31499.5. (a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), shall be continued during and throughout the life of his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance which the surviving spouse would have received had she or he lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life

of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) Designations pursuant to subdivision (b) shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

31499.6. Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

31499.7. (a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. Such transfer is voluntary and shall be irrevocable.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member shall receive credit for no more than 24 months of public service performed prior to December 31, 1969, including service with the employer, military service, and any other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon such reemployment.

31499.8. Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

31499.9. If any provision of this article, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the article which can be given effect without the invalid provisions or application, and, to this end the provisions of this article are severable.

SEC. 5. The Legislature hereby finds and declares that special problems exist in Merced County with respect to a unique and extreme county financial crisis and a specific plan of remedial

retirement options which has been agreed upon by the county and employee organizations and is authorized by Sections 3 and 4 of this act, to which a general statute could not be made applicable.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of Sections 3 and 4 of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. No appropriation is made and no reimbursement is required by Sections 3 and 4 of this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because Sections 3 and 4 of this act are 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.

SEC. 8. No appropriation is made and no reimbursement is required by Section 2 of this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in Section 2 of this act which, in the aggregate, do not result in additional net costs.

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 the necessity are:

In order that the urgent fiscal crisis in Merced County may be alleviated at the earliest possible time pursuant to this act and an agreement between employee organizations and the county, it is necessary that this act take effect immediately.

CHAPTER 559

An act to amend Sections 12640.02 and 12640.10 of the Insurance Code, relating to insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 12640.02 of the Insurance Code is amended to read:

12640.02. The definitions set forth in this article shall govern the construction of the terms used in this chapter but shall not affect any other provisions of this code.

(a) "Mortgage guaranty insurance" means:

(1) Insurance against financial loss by reason of nonpayment of

principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate, provided the improvement on such real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families.

(2) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a junior lien or charge on real estate, provided the improvement on such real estate is a residential building or a condominium unit or building designed for occupancy by not more than four families.

(3) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes.

(4) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate, provided the improvement on such real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) "Authorized real estate security" for the purposes of this chapter means either a note, bond, or other evidence of indebtedness, not exceeding 95 percent of the fair market value of the real estate at the time the loan is made and which is secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate; or, a note, bond, or other evidence of indebtedness secured by a junior lien or charge on the real estate, which, when combined with all existing mortgage loan amounts, does not exceed a total indebtedness equal to 90 percent of the fair market value of the real estate at the time the junior loan is made, unless otherwise approved by the department when the institution wishes to engage in that program or plan, upon payment of a filing fee of four hundred dollars ($400), subject to a limitation on total indebtedness of 95 percent of the fair market value of the real estate at the time the junior loan is made, provided, in all cases:

(1) The real estate loan secured in such manner is any type of loan which a bank, savings and loan association, mortgage banker, credit union, mortgage loan broker, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make or arrange, or would be authorized to make or arrange, disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

(2) The improvement on such real estate is a building or buildings designed for occupancy as specified by paragraphs (1), (2) and (3) of subdivision (a) of this section.

(3) The lien on such real estate may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

"Authorized real estate security" also means a stock or 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 United States Internal Revenue Code.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Policyholders surplus" means the aggregate of capital, surplus and contingency reserve.

SEC. 2. Section 12640.10 of the Insurance Code is amended to read:

12640.10. (a) An insurer which anywhere transacts any class of insurance other than mortgage guaranty insurance defined in paragraphs (1), (3) and (4) of subdivision (a) of Section 12640.02 is not eligible for the issuance of a certificate of authority to transact such classes of mortgage guaranty insurance in this state nor for the renewal thereof. An insurer with a certificate of authority to transact the business of credit insurance in this state may also transact the business of mortgage guaranty insurance as defined in paragraph (2) of subdivision (a) of Section 12640.02, provided the insurer has received the written permission of the commissioner.

(b) An insurer which anywhere transacts the classes of insurance defined in paragraphs (2), (3) and (4) of subdivision (a) of Section 12640.02 is not eligible for the issuance of a certificate of authority to transact in this state the class of mortgage guaranty insurance defined in paragraph (1) of subdivision (a) of Section 12640.02.

(c) An insurer authorized to transact the class of insurance defined in paragraph (2) of subdivision (a) of Section 12640.02 shall maintain segregated accounts with respect to such insurance in the following manner if it anywhere transacts any other class of insurance:

(1) The minimum paid in capital and surplus required by Section 12640.03 and the reserves required to be established pursuant to Sections 12640.04 and 12640.16 shall be contributed to and maintained in the account.

(2) The income and assets attributable to the segregated account shall continuously remain identifiable with the particular account, but, unless the commissioner so orders, the assets need not be kept physically separate from other assets of the insurer. The income, gains and losses, whether or not realized, from assets attributable to the segregated account shall be credited to or charged against the account without regard to other income, gains or losses of the insurer.

(3) Assets attributable to the segregated account shall not be chargeable with any liabilities arising out of any other business of the insurer, and any assets not attributable to the account shall not be chargeable with any liabilities arising out of it.

(4) The segregated account shall be deemed an insurer for purposes of any proceedings in cases of insolvency and delinquency instituted, pursuant to applicable provisions of this code; provided, however, that such account shall not be subject to the provisions of Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1.

(5) Assets allocated to the segregated account are the property of the insurer which shall not hold itself out to be a trustee of the assets.

(6) An insurer may own a particular asset in determinate proportions for such segregated account or for its general account.

(7) An insurer may, by an identifiable act, transfer assets for fair consideration between such segregated account and its general account.

(d) The written permission described in subdivision (a) shall be obtained by filing an application with the commissioner on a form prescribed by the commissioner accompanied by any additional information concerning the insurer, its conditions, and affairs, as the commissioner may require. A fee of one thousand five hundred dollars ($1,500) shall be paid in advance to the department for the filing of the application.

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:

The enactment of S.B. 1656 (Chapter 1084, Statutes of 1982) restricted mortgage guaranty insurance on second trust deeds to real estate on which the total indebtedness does not exceed 90 percent of the fair market value at the time the junior loan was made. In the process of considering S.B. 1656 the Legislature was unaware of an innovative housing finance program which had been approved by the Department of Insurance. While the indebtedness incurred under this program exceeds 90 percent of fair market value of the real estate, the program remains consistent with the prudent insurance practices envisioned by the Legislature in S.B. 1656. In order that this and other innovative housing finance programs not be unduly constrained, it is necessary that this act take effect immediately.

CHAPTER 560

An act to add Sections 20017.87, 20750.85, and 22013.12 to the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 20017.87 is added to the Government Code, to read:

20017.87. "State safety member" also includes members employed in the Department of Corrections in positions with the classification of correctional casework training supervisor.

Any person employed in the above classification in the department may elect, within 90 days of the operative date of this section, to remain subject to the miscellaneous service retirement benefit by filing an irrevocable notice of election with the board.

"State safety service," with respect to a member who becomes a state safety member pursuant to this section, shall also include service rendered as a correctional casework training supervisor in the Department of Corrections prior to the operative date of this section.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act (42 U.S.C. Sec. 418(d) (5) (A)).

SEC. 2. Section 20750.85 is added to the Government Code, to read:

20750.85. The state shall make the increased contributions required on account of liability for benefits provided by Section 20017.87 from social security contributions which would have been payable by an employer had Section 20017.87 not been enacted up to an amount necessary to fully fund the cost of such benefits.

SEC. 3. Section 22013.12 is added to the Government Code, to read:

22013.12. (a) "Policeman" as used in this part, also includes persons employed in positions set forth in Section 20017.87; provided, such designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act (42 U.S.C. Sec. 418(d) (5) (A)).

(b) This section shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in classifications set forth in Section 20017.87 of the Government Code

within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act (42 U.S.C. Sec. 418(d) (5) (A)).

CHAPTER 561

An act to add Sections 110.5, 5008.5, and 12214.5 to the Corporations Code, relating to corporations.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 110.5 is added to the Corporations Code, to read:

110.5. The Secretary of State may cancel the filing of articles of a domestic corporation or the filing of a statement and designation by a foreign corporation if a check or other remittance accepted in payment of the filing fee or franchise tax is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice must be given 20 days or more after the first notice and 90 days or less after the original filing.

SEC. 2. Section 5008.5 is added to the Corporations Code, to read:

5008.5. The Secretary of State may cancel the filing of articles if a check or other remittance accepted in payment of the filing fee or franchise tax is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice must be given 20 days or more after the first notice and 90 days or less after the original filing.

SEC. 3. Section 12214.5 is added to the Corporations Code, to read:

12214.5. The Secretary of State may cancel the filing of articles if a check or other remittance accepted in payment of the filing fee or franchise tax is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been

honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice must be given 20 days or more after the first notice and 90 days or less after the original filing.

CHAPTER 562

An act to amend Section 1033 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 1033 of the Penal Code is amended to read:

1033. In a criminal action pending in the superior court, the court shall order a change of venue:

(a) On motion of the defendant, to another county when it appears that there is a reasonable likelihood that a fair and impartial trial cannot be had in the county. When a change of venue is ordered by the superior court, it shall be for the trial itself. All proceedings before trial shall occur in the county of original venue, except when it is evident that a particular proceeding must be heard by the judge who is to preside over the trial.

(b) On its own motion or on motion of any party, to an adjoining county when it appears as a result of the exhaustion of all of the jury panels called that it will be impossible to secure a jury to try the cause in the county.

CHAPTER 563

An act to repeal Section 2 of Chapter 1145 of the Statutes of 1979, relating to volunteer firefighters, and making an appropriation therefor.

[Approved by Governor July 28, 1983 Filed with Secretary of State July 28, 1983]

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

SECTION 1. Section 2 of Chapter 1145 of the Statutes of 1979 is repealed.

CHAPTER 564

An act to amend Sections 12511 and 72094 of, to repeal and add Sections 12512 and 12525 of, and to add Section 31031.6 to, the Water Code, and to amend Section 50 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969), relating to water.

[Approved by Governor July 26, 1983. Filed with Secretary of State July 28, 1983.]

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

SECTION 1. Section 12511 of the Water Code is amended to read:

12511. The board consists of seven members to be appointed by the Governor as provided in this chapter, and the Director of Water Resources and the Director of Fish and Game or their designees.

SEC. 2. Section 12512 of the Water Code is repealed.

SEC. 3. Section 12512 is added to the Water Code, to read:

12512. The governing bodies of the San Diego County Water Authority, Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley Water District, the Metropolitan Water District of Southern California, and the Department of Water and Power of the City of Los Angeles shall each submit to the Governor two lists of not less than three persons on each with a recommendation as to whom should be appointed from one list as its member on the board and from the other list as its alternate on the board. The Governor shall appoint each agency's member and alternate from the designated lists. If, after 60 days following submission of the initial or any new list, the Governor has not made an appointment, the person recommended by the governing body shall be deemed appointed. Each governing body if it desires to have a new member or alternate, or both, may submit new lists at any time. A member of the governing body of an agency may be appointed as a member of the board or as an alternate. Each alternate shall, in the absence of the appointed member for any cause, including vacancy in the office of the appointed member, have all the authority and rights of the member to which he or she is an alternate. The Governor shall appoint one additional public member.

SEC. 4. Section 12525 of the Water Code is repealed.

SEC. 5. Section 12525 is added to the Water Code, to read:

12525. The board shall elect from among its members, other than the Director of Water Resources or the Director of Fish and Game or their designees, a chairman who is ex officio the "Colorado River

Commissioner." The chairman shall serve at the pleasure of the board.

SEC. 6. Section 31031.6 is added to the Water Code, to read:

31031.6. Notwithstanding Sections 31031 and 31032.1 in the Coachella Valley Water District, the water standby or availability charge or assessment shall not exceed thirty dollars ($30) per acre per year for land on which the charge or assessment is levied, or thirty dollars ($30) per year for a parcel less than one acre.

This section applicable only to the Coachella Valley Water District is necessary because of the unique and special water management and financing problems of the area included within the district.

SEC. 7. Section 72094 of the Water Code is amended to read:

72094. On or before September 1, the board shall certify to the board of supervisors and county auditor the tax rate or rates fixed for the district and shall furnish a statement of any delinquent and unpaid charges for water and other services, or either, requested in writing by the owner of the property that remain delinquent and unpaid for 60 days or more on July 1st.

SEC. 8. Section 50 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 50. The agency, by ordinance, may fix, on or before the first day of July in any calendar year, a water standby or availability charge within the agency or in any improvement district thereof to which water is made available by the agency through underground or by surface facilities, whether the water is actually used or not. The standby charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the agency or any improvement district thereof or ten dollars ($10) per year for any parcel of less than one acre. The ordinance fixing a standby charge shall be adopted by the board only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after notice and hearing in the manner prescribed in the District Reorganization Act of 1965 (commencing with Section 56000 of the Government Code). Notice to all landowners whose property may be made subject to a water standby or availability charge shall be by first class mail addressed to each person or entity to whom land is assessed, as shown on the last equalized roll of the county, at the address shown on the assessment roll. The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability. On or before the third Monday in August, the board shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the agency upon which a charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the district on each parcel of land. The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other tax it levies, a standby charge in the amounts for the

respective parcels fixed by the board. All county officers charged with the duty of collecting taxes shall collect agency standby charges with the regular tax payments to the county. Such charges shall be collected in the same form and manner as county taxes are collected and shall be paid to the agency. Charges fixed by the agency shall be a lien on all the property benefited thereby. Liens for such charges shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes.

CHAPTER 565

An act to amend and repeal Section 87613 of, to amend, repeal, and add Sections 72250 and 87741 of, and to repeal, add, and repeal Article 1 (commencing with Section 84700) and Article 2 (commencing with Section 84720) of Chapter 5 of Part 50 of, the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1983 Filed with Secretary of State August 1, 1983]

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

SECTION 1. Section 72250 of the Education Code is amended to read:

72250. (a) The governing board of a community college district shall impose a fee of ten dollars ($10) per course, not to exceed a total amount of twenty dollars ($20), for a student program change consisting of dropping one or more courses any time after two weeks from the commencement of instruction in any term. The fee shall not be charged for changes due to special circumstances affecting the student's ability to complete the course or for changes initiated or required by the community college.

(b) Each community college district shall submit a report to the Chancellor of the California Community Colleges which provides information regarding all of the following:

(1) The number of students who drop courses after the second week.

(2) Revenues derived from fees assessed pursuant to subdivision (a).

(3) The number of fee waivers granted students due to a request initiated by the community college on the basis of special circumstances affecting the student's ability to complete the course.

(c) This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 1.5. Section 72250 is added to the Education Code, to read:

72250. The governing board of a community college district may impose a fee, not to exceed one dollar ($1), for the actual pro rata cost for services relative to a program change consisting of adding or dropping one or more courses any time after two weeks from the commencement of instruction in any term. Such fee shall not be charged for changes initiated or required by the community college.

This section shall become operative July 1, 1987.

SEC. 2. Article 1 (commencing with Section 84700) of Chapter 5 of Part 50 of the Education Code is repealed.

SEC. 3. Article 1 (commencing with Section 84700) is added to Chapter 5 of Part 50 of the Education Code, to read:

Article 1. Fiscal Year Revenues

84700. For the 1983–84 fiscal year, and each fiscal year thereafter, the chancellor shall apportion state aid to community college districts according to the following procedure:

(a) The fiscal year revenues for each community college district shall be its base revenues as defined in Section 84701, plus or minus the average daily attendance adjustments based on incremental cost adjustments prescribed in Sections 84702 and 84702.5, plus the equalization adjustment specified in Section 84703, plus the inflation adjustment specified in Section 84704, plus the equalization adjustment specified in Section 84705.

(b) For each community college district, the chancellor shall subtract from the revenues determined pursuant to subdivision (a), the local property tax revenue specified by law for general operating support, exclusive of bond interest and redemption, and motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code, and timber yield tax revenue received pursuant to Section 38905 of the Revenue and Taxation Code. The remainder shall be the state general apportionment for each district.

(c) The chancellor shall adjust the amount determined pursuant to subdivision (b) to provide for prior year adjustments required pursuant to Section 84330.

(d) The chancellor shall establish a schedule for the monthly allocation of funds apportioned to community college districts for the fiscal year so that the total allocations made between July 1 and February 1 do not exceed 60 percent of the level of district annual eligibility as determined pursuant to subdivision (a). However, upon the demonstrated need of any community college district for increased levels of allocations of state funds based on district expenditure patterns and cash flow needs, the allocations pursuant to subdivision (e) may be increased so that the total of the allocations to be made between July 1 and February 1 shall not exceed 70 percent rather than 60 percent.

(e) Warrants shall be drawn on the State Treasury by the Controller in favor of the treasurer of each county for the allocations

certified by the Chancellor of the California Community Colleges for the period of July through January in accordance with the following schedule:

(1) 8 percent of district eligibility shall be allocated in July.

(2) 8 percent of district eligibility shall be allocated in August.

(3) 12 percent of district eligibility shall be allocated in September.

(4) 10 percent of district eligibility shall be allocated in October.

(5) 9 percent of district eligibility shall be allocated in November.

(6) 5 percent of district eligibility shall be allocated in December.

(7) 8 percent of district eligibility shall be allocated in January.

84701. (a) The base 1983–84 fiscal year revenues for each community college district shall be the revenue computed for the 1982–83 fiscal year pursuant to Article 3 (commencing with Section 84620) less the adjustments made pursuant to paragraphs (2), (3), and (4) of subdivision (b) of Section 84630.5 and the adjustments made pursuant to Provisions 4 and 11 of Item 6870-101-001 of the Budget Act of 1982.

(b) For the 1984–85 fiscal year and each fiscal year thereafter, the base revenues for each community college district shall be the revenues received for the preceding fiscal year in accordance with Section 84700, plus any unfunded shortage in local revenues identified pursuant to the provisions of Section 84715.

(c) The base fiscal year average daily attendance for each community college district shall be the lesser of the average daily attendance of the preceding fiscal year computed pursuant to Section 84500 as adjusted by Section 84895, if applicable, or the level of average daily attendance which, pursuant to the Budget Act or any other act, received full funding, consistent with provisions of Section 84702.5, in the preceding fiscal year.

(d) The noncredit base revenues for each community college district shall be equal to the units of funded noncredit average daily attendance within the base fiscal year average daily attendance determined pursuant to subdivision (c), multiplied by one thousand one hundred dollars ($1,100) plus applicable inflation adjustments for preceding years subsequent to the 1982–83 fiscal year.

(e) The credit base revenues for each community college district shall be equal to the district's base revenues determined pursuant to subdivision (a) or (b) as appropriate, less the district's noncredit base revenue determined pursuant to subdivision (d).

(f) (1) Funded noncredit average daily attendance for a community college district, for a fiscal year, shall be the lesser of the actual number of noncredit average daily attendance generated for that year or the sum of the noncredit average daily attendance funded for the preceding fiscal year plus allowable increases in noncredit average daily attendance based on the percentage of increase allowance provided for the district through provisions of Section 84706.

(2) However, if the actual number of credit average daily

attendance for the district is less than the sum of the number of credit average daily attendance funded for the preceding fiscal year plus allowable increases in credit average daily attendance based on the percentage of increase allowance provided in Section 84706, then the difference, represented in numbers of average daily attendance, shall be added to the number of funded noncredit average daily attendance determined pursuant to paragraph (1).

The number of funded noncredit average daily attendance so increased shall be greater than the sum of the number of noncredit average daily attendance funded for the preceding fiscal year plus allowable increases in noncredit average daily attendance based on the percentage of increase allowance provided for the district through provisions of Section 84706 but not greater than the actual number of noncredit average daily attendance generated.

(g) In establishing a district's funded credit and noncredit base average daily attendance for the 1983–84 fiscal year, the chancellor shall do both of the following:

(1) Calculate the ratios of total actual credit and noncredit average daily attendance generated to total actual average daily attendance generated in the 1982–83 fiscal year for the district.

(2) Apply the ratios calculated pursuant to paragraph (1) to the district's total average daily attendance for which the district received funding in the 1982–83 fiscal year.

(h) For fiscal year 1983–84, upon request of any district with credit and noncredit average daily attendance and which in the 1982–83 fiscal year generated a total average daily attendance exceeding 110 percent of its total funded average daily attendance, the chancellor may authorize an increase in the total base funded average daily attendance of the district by an amount not to exceed 5 percent of the district's 1982–83 fiscal year funded average daily attendance. The authorized adjustment shall be further limited by an amount of average daily attendance not greater than that average daily attendance for the district that exceeded 110 percent of the district's funded average daily attendance.

84702. The base revenues for each community college district shall be adjusted for changes in average daily attendance, subject to the funded growth limitations in Section 84706, according to the following procedure:

(a) The chancellor shall determine the net increase or net decrease in the number of actual units of average daily attendance of the district between the preceding fiscal year and the current fiscal year.

(b) In the event that the total actual average daily attendance for the current fiscal year is less than the base average daily attendance, the chancellor shall adjust the base revenues for the community college district for the subsequent year by the appropriate incremental cost rate specified in Section 84702.5.

(c) In the event that the total actual average daily attendance for the current fiscal year is greater than the base average daily

attendance, the chancellor shall adjust the base revenues for the community college district for the current year by the appropriate incremental cost rate specified in Section 84702.5.

84702.5. (a) The incremental cost rate for noncredit average daily attendance is one thousand one hundred dollars ($1,100) plus applicable inflation adjustments for preceding years subsequent to the 1982–83 fiscal year.

(b) The incremental cost rate for credit average daily attendance is determined as follows:

(1) For districts reporting 3,001 or more units of credit average daily attendance for the prior fiscal year and which have a net decline in credit average daily attendance since the prior fiscal year, the incremental cost rate is two-thirds of the district's revenue per unit of credit average daily attendance for the prior fiscal year.

(2) For districts reporting 3,001 or more units of credit average daily attendance for the prior fiscal year and which have a net increase in credit average daily attendance since the prior fiscal year, the incremental cost rate is two-thirds of the statewide revenue per unit of credit average daily attendance for districts reporting 3,001 or more units of credit average daily attendance in the prior fiscal year.

(3) For districts reporting fewer than 3,001 units of credit average daily attendance for the prior fiscal year and which have a net decline in credit average daily attendance since the prior fiscal year, the incremental cost rate is two-thirds of the statewide revenue per credit average daily attendance of all districts for the prior fiscal year.

(4) For districts reporting fewer than 3,001 units of credit average daily attendance for the prior fiscal year and which have a net increase in credit average daily attendance since the prior fiscal year, the incremental cost rate is two-thirds of the statewide revenue per unit of credit average daily attendance for districts which received state general apportionment funds in the prior fiscal year pursuant to the provisions of Sections 84620 or 84700, and which reported fewer than 3,001 units of average daily attendance for the prior fiscal year.

84703. (a) The base revenues for each community college district reporting fewer than 3,001 units of credit average daily attendance shall be adjusted by an amount sufficient to raise the revenue per unit of credit average daily attendance for the prior fiscal year to 91 percent of the prior year average revenue per unit of credit average daily attendance for districts reporting fewer than 3,001 units of average daily attendance, as adjusted by the small district factor in subdivision (d) of Section 84704.

(b) The base revenues for each community college district reporting 3,001 or more units of credit average daily attendance shall be adjusted by an amount sufficient to raise the revenue per unit of credit average daily attendance for the prior fiscal year to 91 percent of the prior year average revenue per unit of credit average daily attendance for districts reporting 3,001 or more units of credit

average daily attendance.

84704. (a) The base revenues for each community college district shall be adjusted by the product of the following:

(1) The ratio of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce, for the fourth calendar quarter of the latest available year to the fourth calendar quarter of the prior year rounded to hundredths.

(2) The noncredit base revenue per unit of noncredit average daily attendance computed pursuant to Section 84701.

(3) The district's funded noncredit average daily attendance for the current fiscal year.

(b) For districts reporting 3,001 or more units of credit average daily attendance for the prior fiscal year, the base revenues shall be adjusted by the product of the following:

(1) The ratio of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce, for the fourth calendar quarter of the latest available year to the fourth calendar quarter of the prior year rounded to hundredths.

(2) The average revenue per unit of credit average daily attendance for all districts reporting 3,001 or more units of credit average daily attendance for the prior fiscal year or the district's revenue per unit of credit average daily attendance for the prior fiscal year, whichever is greater.

(3) The district's current year funded credit average daily attendance.

(c) For districts reporting less than 3,001 units of credit average daily attendance for the prior fiscal year, the base revenues shall be adjusted by the product of the following:

(1) The ratio of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce, for the fourth calendar quarter of the latest available year to the fourth calendar quarter of the prior year rounded to hundredths.

(2) The average revenue per unit of credit average daily attendance for all districts which received state general apportionment funds in the prior fiscal year pursuant to provisions of Section 84620 or 84700, and reporting less than 3,001 units of credit average daily attendance for the prior fiscal year as adjusted pursuant to subdivision (d) or the revenue per unit of credit average daily attendance for the district for the prior fiscal year, whichever is greater.

(3) The district's current fiscal year funded credit average daily attendance.

(d) The small district factor shall be equal to the formula:

$$\frac{a + bx + cx^2}{d}$$

(1) The value of "a" is 3,481.923 less the difference between 2,051.9775 and the prior year statewide average revenue per unit of credit average daily attendance for districts reporting more than 3,001 units of credit average daily attendance.

(2) The value of "b" is −0.783406.

(3) The value of "c" is 0.0001022525.

(4) The value of "d" is the prior year statewide average revenue per unit of credit average daily attendance for districts reporting less than 3,001 units of credit average daily attendance.

(5) The value of "x" is the district's prior year funded credit average daily attendance.

(e) For the 1983–84 fiscal year only, a factor of 0.06 shall be used in subdivisions (a), (b), and (c) in lieu of the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services.

(f) Adjustments made pursuant to this section in any fiscal year shall be made only if, and to the extent that, the chancellor determines that sufficient funds are appropriated to the community colleges for inflation adjustments, and equalization adjustments pursuant to Section 84705, to be made in that fiscal year.

84705. The base revenues for low revenue community college districts shall be adjusted for equalization as follows:

(1) Compute an amount equal to 10 percent of the statewide total adjustment computed for credit average daily attendance in Section 84704. For the 1983–84 fiscal year only, the amount calculated pursuant to this paragraph shall be reduced by an amount equal to the sum of the differences between 90 percent and 91 percent of the prior year average revenues per unit of credit average daily attendance pursuant to Section 89703 for districts reporting fewer than 3,001 units of credit average daily attendance and for districts reporting 3,001 or more units of credit average daily attendance.

(2) The amount computed in paragraph (1) shall be allocated to raise the revenue per unit of credit average daily attendance of low revenue community college districts to the highest common level possible in relation to the amounts specified in subparagraph (A) or (B).

(A) For districts reporting 3,001 or more units of credit average daily attendance in the prior fiscal year, the prior fiscal year statewide average revenue per unit of credit average daily attendance.

(B) For districts reporting fewer than 3,001 units of credit average daily attendance, the prior fiscal year statewide average revenue per unit of credit average daily attendance, adjusted by the small district factor specified in subdivision (d) of Section 84704.

84706. (a) For the purpose of this article, average daily attendance shall include only the attendance of state residents, except as provided in Section 78462, attending within the district. All

attendance of all students shall be reported in accordance with instructions provided by the chancellor.

(b) Community college districts shall be allowed to increase their funded average daily attendance over the prior year as determined by the chancellor in accordance with the following procedures:

(1) For the 1983–84 fiscal year, districts may be allowed to increase their funded average daily attendance to the level funded in the 1981–82 fiscal year less the adjustments made pursuant to Provision 11 of Item 6870-101-001 of the Budget Act of 1982. Increases for each district provided by this paragraph shall be in addition to the increases provided by paragraphs (2) and (4) and shall be allowed only to the extent that increases in statewide average daily attendance provided by this section, exclusive of paragraph (4), does not exceed the rate of change of the adult population of the state as determined by the Department of Finance, or funds remain available statewide pursuant to paragraph (3).

(2) Increases in statewide average daily attendance shall be based on the rate of change of the adult population of the state as determined by the Department of Finance. The allocation of changes on a district-by-district basis shall be determined by the chancellor, based on such factors as the rate of change in the adult population, as determined by the Department of Finance, unemployment, refugee population, and adult participation in the district. The chancellor shall allocate at least 0.01 times the base average daily attendance of the district or 100 units of average daily attendance, whichever is greater, unless adjusted pursuant to paragraph (5) of this subdivision.

The allocation of allowable increases in average daily attendance on a district-by-district basis shall not exceed a reasonable anticipated normal growth for any district, based on information that the chancellor may receive from the district.

(3) The level of funding available for increases in average daily attendance for each district, based on increases specified in paragraph (2), shall be the sum of the following:

(A) The percentage of allowable increase in average daily attendance specified in paragraph (2) times the level of funded noncredit average daily attendance of the preceding fiscal year times the incremental cost rate specified in subdivision (a) of Section 84702.5.

(B) The percentage of allowable increase in average daily attendance specified in paragraph (2) times the level of funded credit average daily attendance of the preceding fiscal year times the incremental cost rate specified in subdivision (b) of Section 84702.5.

(4) The chancellor shall allocate additional increases in average daily attendance for program growth in areas of statewide concern that are funded in the annual Budget Act or any other act of the Legislature, based on criteria adopted for those allocations.

(5) In the event of a deficit in funding for workload increases, all allowable increases in average daily attendance provided by this

section shall be reduced proportionally.

(c) All increases in funded credited average daily attendance shall be accounted for in the following categories of the course classification system of the community colleges, as determined by the chancellor:

(1) Units of average daily attendance in courses that provide transfer credit to a baccalaureate-awarding institution.

(2) Units of average daily attendance in occupational education and vocational and technical programs and courses.

(3) Units of average daily attendance which prepare students for courses identified in paragraphs (1) and (2).

84710. For the 1983–84 fiscal year and each fiscal year thereafter, in the event that General Fund appropriations and local property tax and other local tax revenues allocated to community college districts are less than the amounts computed for all districts for the fiscal year, pursuant to Section 84700, the chancellor shall apportion general aid to the community college districts according to the following procedure:

(a) First, the chancellor shall fund in total for all community college districts the base as specified in Section 84701, less the workload adjustment as specified in subdivision (b) of Section 84702.

(b) The chancellor shall allocate any remaining funds for the following purposes in the following order:

(1) Equalization adjustments specified in Section 84703.

(2) The sum of inflation and equalization adjustments for all community college districts calculated pursuant to Sections 84704 and 84705.

(3) Workload increases for all community college districts in accordance with Section 84702.

(4) Program changes for all community college districts calculated pursuant to Section 84640.

(c) Unless otherwise provided in this article, in cases where total available funds are less than the total amount calculated for all districts for a particular purpose, the chancellor shall apportion funds for that purpose to each district eligible for the funds by multiplying the amounts determined in paragraphs (1) and (2) as follows:

(1) The total amount available for the purpose divided by the total of all districts' calculated amounts for that purpose.

(2) The calculated amount for that purpose for the district during the fiscal year.

84710.5. It is the intent of the Legislature that community college districts with noncredit programs recognize the importance of noncredit programs and that they will continue to support these offerings in the 1983–84 fiscal year and each fiscal year thereafter.

It is also the intent of the Legislature that community college districts with noncredit programs consider the need for both credit and noncredit allocations in allocating future growth pursuant to Section 84706.

84711. (a) For purposes of this chapter, the following noncredit

courses and classes shall be eligible for funding:

(1) Parenting, including parent cooperative preschools, classes in child growth and development and parent-child relationships, and classes in parenting.

(2) Elementary and secondary basic skills and other courses and classes such as remedial academic courses or classes in reading, mathematics, and language arts.

(3) English as a second language.

(4) Citizenship for immigrants.

(5) Education programs for substantially handicapped persons.

(6) Short-term vocational programs with high employment potential.

(7) Education programs for older adults.

(8) Education programs in home economics.

(9) Health and safety education.

(b) No state apportionment shall be made for any course or class which is not set forth in subdivision (a) and for which no credit is given.

84712. Not later than May 15 of each year, the Department of Finance shall notify the Legislature and the Chancellor's Office of the California Community Colleges of the amount of revenue estimated to be available to community college districts during the next fiscal year from local property taxes, exclusive of bond interest and redemption, motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code, and timber taxes received pursuant to Section 38905 of the Revenue and Taxation Code. Not later than March 15 of each year, the chancellor's office shall certify to the Department of Finance the amount of revenue available from these tax sources for the current fiscal year. The Department of Finance shall subtract the total amount of available revenue certified by the chancellor's office from the total amount of available revenue estimated by the department the preceding May. The Department of Finance shall notify the Legislature of the resulting difference and shall advise the Legislature as to whether the difference represents a net surplus or a net deficit in the funds appropriated to meet the provisions of Section 84700.

84713. This article shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Article 2 (commencing with Section 84720) of Chapter 5 of Part 50 of the Education Code is repealed.

SEC. 4.5. Article 2 (commencing with Section 84720) is added to Chapter 5 of Part 50 of the Education Code, to read:

Article 2. Intent and Operation

84720. This chapter shall be known and may be cited as the Alquist-Campbell Community College Finance Act of 1983.

84721. The Legislature recognizes that pursuant to the Master Plan for Higher Education, the California community colleges provide cost-effective academic and vocational instruction and educational opportunities for millions of Californians who otherwise would be denied postsecondary educational opportunities.

In enacting this chapter, it is the intent of the Legislature that community college revenues and the finance legislation be sufficient to meet increasing costs and enrollment pressures due to various factors beyond the control of community college districts, such as inflation, changes in adult population, the job training needs of unemployment and displaced workers, and refugees.

It is also the intent of the Legislature that community college districts be provided with a stable, long-term finance law to better enable the community college districts to plan, budget, and develop their program offerings to meet the current educational needs of their respective communities.

84722. It is also the intent of the Legislature that a portion of the funds provided pursuant to Section 84700 shall be used by community college districts to provide information to the chancellor and to other state agencies for the planning and general coordination of postsecondary education, and to enable the Legislature to determine whether these purposes are being fulfilled by the community colleges.

84723. This article shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 87613 of the Education Code is amended to read:

87613. (a) In any community college district, the percentage of weekly faculty contact hours taught by part-time instructors shall not exceed the three-year district average of weekly faculty contact hours taught by part-time instructors during the 1980–81, 1981–82, and 1982–83 academic years.

(b) If in any academic year a district exceeds by more than 1 percent the percentage of weekly faculty contact hours taught by part-time instructors specified in subdivision (a), the district shall, by February 1 of that academic year, submit a plan for compliance for the next academic year to the Board of Governors of the California Community Colleges. The plan shall be developed with the involvement of the appropriate faculty representative. The board of governors may approve the plan for compliance only after reviewing the feasibility of the plan at a regular meeting. The district shall comply with the requirements of subdivision (a) in the next academic year.

(c) For purposes of this section, "part-time instructor" means an instructor who is employed to teach adult or community college classes for not more than 60 percent of the hours per week considered a full-time assignment.

(d) The provisions of this section shall not apply to any

community college district in which the weekly faculty contact hours taught by part-time instructors do not exceed 30 percent.

(e) This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5.5. Section 87741 of the Education Code is amended to read:

87741. A certificated employee holding a position requiring an administrative or supervisory credential may be released from his or her position 90 or more days after notice that the governing board intends to release him or her. The provisions of this section do not apply to a certificated employee who holds a written contract with an expiration date beyond the current school year, or to a certificated employee holding a position that is funded for less than a school year, or to a certificated employee assigned to an acting position whose continuing right to hold this position depends on his being selected from an eligible list established for the position, or to the termination of employment pursuant to Section 87743.

This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5.7. Section 87741 is added to the Education Code, to read:

87741. Unless a certificated employee holding a position requiring an administrative or supervisory credential is sent written notice deposited in the United States registered mail with postage prepaid and addressed to his last known address by March 15 that he may be released from his position for the following school year or unless the signature of such an employee is obtained by March 15 on such written notice that he may be released from his position for the following year, he shall be continued in such position. The provisions of this section do not apply to a certificated employee who holds a written contract with an expiration date beyond the current school year, or to a certificated employee holding a position that is funded for less than a school year, or to a certificated employee assigned to an acting position whose continuing right to hold this position depends on his being selected from an eligible list established for the position, or to the termination of employment pursuant to Section 87743.

This section shall become operative July 1, 1987.

SEC. 6. (a) It is the intent of the Legislature to fund community colleges in a manner which better reflects the costs of delivering instruction and services than does the current system of community college finance. To achieve this purpose, the Chancellor of the California Community Colleges shall develop, as an alternative to Section 84703 of the Education Code, a system of differential funding for community college districts.

(b) The chancellor shall conduct a differential funding study in

consultation with an advisory committee composed of representatives from community college districts, the Department of Finance, the Office of the Legislative Analyst, and the California Postsecondary Education Commission. District representation on the advisory committee may include representatives of the students, faculty, administration, and governing board members.

(c) The study shall consider and make recommendations in at least the following areas:

(1) The appropriate number and character of support categories for the community colleges.

(2) An assessment of appropriate workload measures for each cost category based on each measure's relation to (A) costs of delivering the service, (B) fiscal incentives, and (C) the cost of collection and verification.

(3) The development of a procedure to establish appropriate support levels for each category based on an analysis of fixed and variable costs, the impact of inflation, and other factors that influence the adequacy of these support levels.

(4) The integration of student services as a component of district workload standards.

(5) Estimates of the impact of the recommended changes on individual district's budgets.

(6) Estimates of the costs associated with the implementation and operation of a differential funding system.

(d) The chancellor shall make a progress report to the Legislature on the study by March 15, 1984, and shall submit the final report by December 1, 1984.

(e) Until such time as the differential funding study is completed and the method of allocating state funds to community college districts is adjusted based on the differential funding study, no community college district providing services for substantially handicapped persons in adult or summer session noncredit programs shall reduce the level of those services below the level provided in the 1982–83 fiscal year, unless this requirement is waived by the Chancellor of the California Community Colleges after certification from the community college district that the local demand for the program is less than the required level of service.

SEC. 7. The chancellor shall determine the level of direct program costs of the educational programs provided by community college districts for residents of state hospitals in the 1982–83 fiscal year. The chancellor shall, during the 1983–84 fiscal year, certify the amount of the direct program costs, together with funds provided for inflation, for each district, and shall notify the Controller of the amounts. The Controller shall transfer an amount equal to the sum of those costs, together with funds provided for inflation, from subitem (a) to subitem (c) of Item 6870-101-001 of the Budget Act of 1983.

The chancellor shall reduce the base level of apportionment funds allocated to the affected community college districts in the amounts

certified. The chancellor shall separately account for the funds transferred to subitem (c) of Item 6870-101-001 and shall allocate the funds to the affected community college districts so that they are assured of receiving at least the same level of funding for the educational services provided to the residents of the state hospitals.

The chancellor shall adjust the level of average daily attendance funded with funds appropriated in subitem (a) of Item 6870-101-001 in such an amount that the average revenues per unit of average daily attendance for the community college districts affected will remain the same after the transfer of funds as they were prior to the transfer of funds. The transfer of funds shall not adversely affect the total level of funds allocated to the affected community college districts from categories (a) and (c) of Item 6870-101-001 of the Budget Act of 1983.

The community college districts shall continue to provide indirect services for the state hospitals programs and shall fund the services from funds apportioned to the district from category (a) of Item 6870-101-001.

For purposes of determining the allocation of excess cost funds under provisions of Sections 78014 and 84850 of the Education Code, the districts shall not be adversely affected by provisions of this section.

SEC. 8. It is the intent of the Legislature to support the interpretation of the Chancellor of the California Community Colleges of May 18, 1983, that positions funded through the provisions of Article 8 (commencing with Section 69640) of Chapter 2 of Part 42 of the Education Code and Article 6 (commencing with Section 84850) of Chapter 5 of Part 50 of the Education Code shall not be considered temporary positions under Section 87470 of the Education Code.

The chancellor shall examine the current practices regarding these types of positions in a report to the budget and educational policy committees of the Legislature by April 15, 1984.

SEC. 9. The California Postsecondary Education Commission shall develop a plan for a course-numbering system to be used by public postsecondary educational institutions. If the commission determines that the common course-numbering system is feasible, the commission shall recommend a plan to implement the system. The course-numbering system shall be designed to do all of the following:

(a) Promote the transfer of community college students to four-year postsecondary institutions by simplifying the identification of transferable courses, and the specific disciplines and programs to which those courses are transferable.

(b) Promote the development of a common method of course classification within each segment of public postsecondary education where there is a clear need for such a common method.

(c) Help identify courses with comparable content, so that certain competencies can be expected upon completion of such courses.

SEC. 10. The California Postsecondary Education Commission shall study efforts to achieve a common course-numbering system in public postsecondary education in other states, evaluate the various methods employed to achieve such a system, and estimate the cost of implementing each method in California.

SEC. 11. The California Postsecondary Education Commission shall submit its findings and recommendations pursuant to Sections 9 and 10 of this act to the Legislature on or before January 1, 1985.

SEC. 12. (a) The Board of Governors of the California Community Colleges shall develop a plan for a system for student matriculation. The plan shall address, but not be limited to, the following:

(1) An application process with exemptions for students where an application is inappropriate.

(2) Assessment testing for reading and mathematics to promote appropriate student placement.

(3) A system of career counseling and academic advisement by credentialed or otherwise qualified counselors and faculty.

(4) A requirement for students to identify educational goals, including, but not limited to:

(A) Transfer.

(B) Associate degree.

(C) Vocational certificate.

(D) An approved individualized program.

(5) Guidelines for students to maintain matriculated status.

(b) The board of governors shall collect data on the student matriculation plan. The board shall report the data, with appropriate recommendations for the implementation of the matriculation system, to the Legislature by April 15, 1984.

SEC. 13. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for purposes of the differential funding study pursuant to Section 6 of this act.

SEC. 14. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for purposes of the student matriculation plan required pursuant to Section 12 of this act.

SEC. 15. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. 16. No appropriation is made and no reimbursement is required by Section 1 of this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school

district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to apply for the entire 1983–84 fiscal year and to provide community college districts sufficient time to plan and adopt new budgets for the 1983–84 fiscal year as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 566

An act to add Section 13833.5 to the Health and Safety Code, relating to fire protection districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1983. Filed with Secretary of State August 25, 1983]

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

SECTION 1. Section 13833.5 is added to the Health and Safety Code, to read:

13833.5. Upon the completion of a change of organization, as defined in Section 56028 of the Government Code, or a reorganization, as defined in Section 56068, which involves the annexation of inhabited territory to a fire protection district organized under this part, the number of directors of the annexing district shall be increased from three to five, or from five to seven, provided that both of the following conditions are met:

(a) The board of directors of the annexing district consents, by unanimously adopted resolution, to the increase.

(b) The local agency formation commission conditions, pursuant to Section 56470 of the Government Code, its approval of the change of organization upon the increase.

For purposes of this section, the board of supervisors shall, within 30 days of the effective date of the change of organization, appoint the two new directors, one of whom shall serve for a three-year term, and the other for a two-year term.

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 permit needed reorganization of fire protection districts to proceed without delay, this act must go into immediate effect.

CHAPTER 567

An act to amend Sections 53601 and 53635 of the Government Code, relating to funds of local agencies.

[Approved by Governor August 24, 1983 Filed with Secretary of State August 25, 1983]

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

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 1.5. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this

state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount.

For purposes of this section, the term "reverse repurchase

agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

SEC. 2.5. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal

utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 53601 of the Government Code proposed by both this bill and AB 695. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 53601 of the Government Code, and (3) this bill is enacted after AB 695, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 53635 of the Government Code proposed by both this bill and AB 695. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 53635 of the Government Code, and (3) this bill is enacted after AB 695, in which case Section 2 of this bill shall not become operative.

CHAPTER 568

An act to amend Section 1203.2 of, and to repeal and add Section 1203.04 to, the Penal Code, relating to victims of crimes.

[Approved by Governor August 24, 1983 Filed with Secretary of State August 25, 1983.]

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

SECTION 1. Section 1203.04 of the Penal Code, as added by Chapter 1413 of the Statutes of 1982, is repealed.

SEC. 2. Section 1203.04 is added to the Penal Code, to read:

1203.04. (a) In every case where a person is convicted of a crime and is granted probation, the court shall require, as a condition of probation, that the person make restitution as follows:

(1) To the victim, if the crime involved a victim. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. Payments shall be made to the Restitution Fund to the extent the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(2) To the Restitution Fund, if the crime did not involve a victim.

(b) If the court finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons why restitution should not be required as provided in subdivision (a), the court shall require, as a condition of probation, that the person perform specified community service.

(c) The court may avoid imposing the requirement of community service as a condition of probation only if it finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons not to require community service in addition to its finding as to why restitution pursuant to subdivision (a) should

not be required.

(d) For purposes of paragraph (1) of subdivision (a), "restitution" means full or partial payment for the value of stolen or damaged property, medical expenses, and wages or profits lost due to injury or to time spent as a witness or in assisting the police or prosecution, which losses were caused by the defendant as a result of committing the crime for which he or she was convicted. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the defendant arising out of the crime for which the defendant was convicted.

(e) For purposes of paragraph (2) of subdivision (a), the amount of restitution to be paid to the Restitution Fund shall be set at the discretion of the court and commensurate with the seriousness of the offense; shall be at least one hundred dollars ($100) but shall not exceed ten thousand dollars ($10,000) if the person is convicted of a felony; and shall be at least ten dollars ($10) but not more than one thousand dollars ($1,000) if the person is convicted of a misdemeanor.

(f) Nothing in this section shall be construed to limit the authority of the court to grant or deny probation or provide conditions of probation.

SEC. 2.5. Section 1203.2 of the Penal Code is amended to read:

1203.2. (a) At any time during the probationary period of a person released on probation under the care of a probation officer pursuant to this chapter, any probation or peace officer may, without warrant or other process and at any time until the final disposition of the case, rearrest the person and bring him before the court or the court may, in its discretion, issue a warrant for his rearrest. Upon such rearrest, or upon the issuance of a warrant for rearrest the court may revoke and terminate such probation if the interests of justice so require and the court, in its judgment, has reason to believe from the report of the probation officer or otherwise that the person has violated any of the conditions of his probation, has become abandoned to improper associates or a vicious life, or has subsequently committed other offenses, regardless whether he has been prosecuted for such offenses. However, probation shall not be revoked for failure of a person to make restitution pursuant to Section 1203.04 as a condition of probation unless the court determines that the defendant has willfully failed to pay and has the ability to pay. Restitution shall be consistent with a person's ability to pay. Such revocation, summary or otherwise, shall serve to toll the running of the probationary period.

(b) Upon its own motion or upon the petition of the probationer, probation officer or the district attorney of the county in which the probationer is supervised, the court may modify, revoke, or terminate the probation of the probationer pursuant to this subdivision. The court shall give notice of its motion, and the

probation officer or the district attorney shall give notice of his petition to the probationer, his attorney of record, and the district attorney or the probation officer, as the case may be. The probationer shall give notice of his petition to the probation officer and notice of any such motion or petition shall be given to the district attorney in all cases. The court shall refer its motion or the petition to the probation officer. After the receipt of a written report from the probation officer, the court shall read and consider the report and either its motion or the petition and may modify, revoke, or terminate the probation of the probationer upon the grounds set forth in subdivision (a) if the interests of justice so require.

The notice required by this subdivision may be given to the probationer upon his first court appearance in such proceeding. Upon the agreement by the probationer in writing to the specific terms of a modification or termination of a specific term of probation, any requirement that the probationer make a personal appearance in court for the purpose of such modification or termination shall be waived. Prior to such modification or termination and waiver of appearance, the probationer shall be informed of his right to consult with counsel, and if indigent the right to secure court appointed counsel. If the probationer waives his right to counsel a written waiver shall be required. If probationer consults with counsel and thereafter agrees to a modification or termination of the term of probation and waiver of personal appearance, such agreement shall be signed by counsel showing approval for such modification or termination and waiver.

(c) Upon any revocation and termination of probation the court may, if the sentence has been suspended, pronounce judgment for any time within the longest period for which the person might have been sentenced. However, if the judgment has been pronounced and the execution thereof has been suspended, the court may revoke such suspension and order that the judgment shall be in full force and effect. In either case, the person shall be delivered over to the proper officer to serve his sentence, less any credits herein provided for.

(d) In any case of revocation and termination of probation, including, but not limited to, cases in which the judgment has been pronounced and the execution thereof has been suspended, upon such revocation and termination, the court may, in lieu of any other sentence, commit the person to the Department of the Youth Authority if he is otherwise eligible for such commitment.

(e) If probation has been revoked before the judgment has been pronounced, the order revoking probation may be set aside for good cause upon motion made before pronouncement of judgment. If probation has been revoked after the judgment has been pronounced, the judgment and the order which revoked the probation may be set aside for good cause within 30 days after the court has notice that the execution of the sentence has commenced. If an order setting aside the judgment, the revocation of probation, or both is made after the expiration of the probationary period, the

court may again place the person on probation for such period and with such terms and conditions as it could have done immediately following conviction.

SEC. 3. The Legislature hereby finds and declares that payment into the Restitution Fund by persons convicted of crimes which did not involve particular victims is appropriate and in the public interest, as all of society is victimized and pays the price when such crimes occur. Accordingly, the Legislature finds and declares that it is highly appropriate that persons convicted of such crimes carry part of the burden through payment into the Restitution Fund.

SEC. 4. This act is part of the Crime Victim Restitution Program of 1983, in that it assists crime victims in obtaining restitution by requiring convicted criminals who are granted probation to pay restitution to the victim, or if the crime did not involve a victim, to make payments into the Restitution Fund.

CHAPTER 569

An act to amend Section 14340 of the Business and Professions Code, relating to trademarks.

[Approved by Governor August 25, 1983 Filed with Secretary of State August 25, 1983.]

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

SECTION 1. Section 14340 of the Business and Professions Code is amended to read:

14340. (a) Any owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits thereof and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display, or sale as may be deemed just and reasonable, and shall require the defendants to pay to the owner up to three times their profits from, and up to three times all damages suffered by reason of, the wrongful manufacture, use, display, or sale.

If, in any action brought under this section, the court determines that a mark is counterfeit, the court may order the destruction of all such marks, all means of making the marks, and all goods, articles, or other matter bearing the marks, which are in the possession or control of the court or any party to the action; or, after obliteration of the counterfeit mark, the court may dispose of those materials by ordering their transfer to the State of California, a civil claimant, an eleemosynary institution, or any appropriate private person other than the person from whom the materials were obtained.

(b) The court, upon motion or ex parte application by a plaintiff in a suit to enjoin the manufacture, use, display, or sale of counterfeits, may order seizure of the counterfeit goods from persons

manufacturing, displaying for sale, or selling the goods, upon a showing of good cause and a probability of success on the merits and upon the posting of an undertaking pursuant to subdivision (e). If it appears from the ex parte application that there is good reason for proceeding without notification to the defendant, the court may, for good cause shown, waive the requirement of notice for the ex parte proceeding. The order of seizure shall specifically set forth (1) the date or dates on which the seizure is ordered to take place, (2) a description of the counterfeit goods to be seized, (3) the identity of the persons or class of persons to effect seizure, (4) a description of the location or locations at which seizure is to occur, and (5) a hearing date not more than 10 court days after the last date on which seizure is ordered at which any person from whom goods are seized may appear and seek release of the seized goods. Any person from whom seizure is effected shall be served with the order at the time of seizure.

(c) Any person who causes seizure of goods which are not counterfeits shall be liable in an amount equal to the following:

(1) Any damages proximately caused to any person having a financial interest in the seized goods by the seizure of goods which are not counterfeit.

(2) Costs incurred in defending against seizure of noncounterfeit goods.

(3) Upon a showing that the person causing the seizure to occur acted in bad faith, expenses, including reasonable attorneys' fees expended in defending against the seizure of any noncounterfeit or noninfringing goods.

(4) Punitive damages, if warranted.

(d) A person entitled to recover may seek a recovery pursuant to subdivision (c) by cross-claim or motion made in the trial court and served pursuant to Section 1011 of the Code of Civil Procedure. A person seeking a recovery pursuant to this section may join any surety on an undertaking posted pursuant to subdivision (b), and any judgment of liability shall bind the person liable pursuant to subdivision (c) and the surety jointly and severally, but the liability of the surety shall be limited to the amount of the undertaking.

(e) The court shall set the amount of the undertaking required by subdivision (b) in accordance with the probable recovery of damages, costs, and expenses under subdivision (c) if it were ultimately determined that the goods seized were not counterfeit.

(f) Any person entitled to recover under subdivision (c) may, within 30 days after the date of seizure, object to the undertaking on the grounds that the surety or the amount of undertaking is insufficient.

(g) The motion or application filed pursuant to subdivision (b) shall include a statement advising the person from whom the goods are seized that the undertaking has been filed; informing him or her of his or her right to object to the undertaking on the grounds that the surety or the amount of the undertaking is insufficient; and

advising the person from whom the goods are seized that such objection to the undertaking would be made within 30 days after the date of seizure.

(h) For purposes of this section, the term "counterfeit" means a spurious mark which is identical with, or substantially indistinguishable from, a registered mark and which is used on or in connection with goods or services for which the genuine mark is registered.

CHAPTER 570

An act to add Section 13060 to the Health and Safety Code, relating to public entities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1983. Filed with Secretary of State August 29, 1983.]

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

SECTION 1. Section 13060 is added to the Health and Safety Code, to read:

13060. Any public entity may place blue reflective pavement markers in any highway, street, or road for marking fire hydrant locations and water supply locations. These blue reflective pavement markers shall not be used for any other purpose. This section shall not apply to freeways or freeway ramps.

A public entity shall not place blue reflective pavement markers on a state highway unless it first obtains an encroachment permit from the Department of Transportation.

SEC. 2. Notwithstanding the deadline provided by Section 29088 of the Government Code, a board of supervisors shall adopt its final budget for the 1983–84 fiscal year by October 15, 1983.

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:

This act relates to local fiscal affairs in the 1983–84 fiscal year. In order to be applicable as soon as possible during that time, it must take effect immediately.

SEC. 4. Section 1 of this act shall become operative January 1, 1984.

CHAPTER 571

An act to add Section 30508 to the Water Code, relating to county water districts.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983.]

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

SECTION 1. Section 30508 is added to the Water Code, to read:

30508. If a director's place of residence, as defined in Section 244 of the Government Code, is moved outside district boundaries or outside the boundaries of that director's division where elected from a division, and if within 180 days of the move or of the effective date of this section the director fails to reestablish a place of residence within the district or within the director's division, it shall be presumed that a permanent change of residence has occurred and that a vacancy exists on the board of directors pursuant to Section 1770 of the Government Code.

CHAPTER 572

An act to amend Section 25755 of the Business and Professions Code, relating to peace officers.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983]

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

SECTION 1. Section 25755 of the Business and Professions Code is amended to read:

25755. The director and the persons employed by the department for the administration and enforcement of this division are peace officers in the enforcement of the penal provisions of this division, the rules of the department adopted under the provisions of this division, and any other penal provisions of law of this state prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulteration, dilution, misbranding, or mislabeling of alcoholic beverages or intoxicating liquors, and such persons are authorized, while acting as peace officers, to enforce any penal provisions of law while they are in, on, or about any licensed premises in the course of their employment.

The director, the persons employed by the department for the administration and enforcement of this division, and peace officers listed in Section 830.1 of the Penal Code may, in enforcing the provisions of this division, visit and inspect the premises of any

licensee at any time during which the licensee is exercising the privileges authorized by his or her license on the premises.

Members of the California State Police and peace officers of the Department of Parks and Recreation, as defined in subdivisions (b) and (h) of Section 830.2 of the Penal Code may, in enforcing the provisions of this division, visit and inspect the premises of any licensee located on state property at any time during which the licensee is exercising the privileges authorized by his or her license on the premises.

CHAPTER 573

An act to amend Section 1493 of the Health and Safety Code, relating to sexual assaults.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983]

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

SECTION 1. Section 1493 of the Health and Safety Code is amended to read:

1493. The State Department of Health Services, in cooperation with the Department of Justice, shall adopt a standard and complete form for recordation of medical data disclosed by examination of a victim of rape or other sexual assault.

Each physician and surgeon in a county hospital and in any other general acute care hospital who conducts an examination for evidence of a rape or other sexual assault shall utilize the standard form adopted pursuant to this section and shall make such observations and perform such tests as may be required for recordation of all the data required by the form. If the examination is for evidence of sexual assault of a child as defined in subdivision (b) of Section 11165 of the Penal Code, completion of the suspected child abuse medical report form adopted pursuant to Section 11168 of the Penal Code shall constitute full compliance with this section. Such forms shall be subject to the same principles of confidentiality applicable to any other medical record.

The State Department of Health Services shall make available sufficient copies of such forms to every county hospital and shall provide copies to private general acute care hospitals and to other public general acute care hospitals, upon request.

CHAPTER 574

An act to add Section 5057.5 to the Penal Code, relating to Department of Corrections.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983.]

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

SECTION 1. Section 5057.5 is added to the Penal Code, to read:

5057.5. (a) Notwithstanding Section 11005 of the Government Code, the Director of Corrections may accept a gift or donation of goods or services to the state following a review and determination by the director that the gift or donation is not subject to illegal or discriminatory conditions, that it does not involve the expenditure of state funds, and that the acceptance of the gift is in the best interests of the state.

(b) Notwithstanding subdivision (a), the acceptance of a gift or donation that would involve any expenditure of state funds shall be subject to Section 11005 of the Government Code.

(c) It is the intent of the Legislature in enacting this section to recognize the significant contribution that private donors of goods and services can make in supporting the corrections system, and the development of effective vocational education and correctional industries in our prison system. With that objective in mind, the Director of Corrections is encouraged to further develop the current system of gifts and donations through the design of a prompt and efficient review procedure that will encourage donors and protect the interests of the state.

CHAPTER 575

An act to add Section 69674.5 to the Education Code, relating to education.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983.]

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

SECTION 1. Section 69674.5 is added to the Education Code, to read:

69674.5. (a) At least 20 percent of all new graduate fellowships awarded on or after January 1, 1984, shall be in the fields of mathematics, engineering, science, technology, and the teaching of mathematics or science, until the survey conducted pursuant to subdivision (b) demonstrates that the human resource needs of the

state no longer justify that percentage.

(b) At least every four years, the commission shall conduct a survey of the state's human resource needs, utilizing data obtained from other state agencies and private organizations.

CHAPTER 576

An act to amend Section 640 of the Penal Code, relating to crimes.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983.]

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

SECTION 1. Section 640 of the Penal Code is amended to read:

640. Any of the following acts committed on or in the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, on or in the facilities of, or vehicles operated by entities subsidized by, the State Department of Transportation is an infraction punishable by a fine not to exceed fifty dollars ($50) or by community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment:

(a) Evasion of the payment of the fares of the system.

(b) Misuse of transfers, passes, tickets, or tokens with the intent to evade the payment of fares.

(c) Playing sound equipment on or in system facilities or vehicles.

(d) Smoking, eating, or drinking in or on system facilities or vehicles in those areas where those activities are prohibited by that system.

(e) Expectorating upon system facilities or vehicles.

(f) Willfully disturbing others on or in system facilities or vehicles by engaging in boisterous or unruly behavior.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 577

An act to amend Section 22848 of, and to add Section 22840.5 to, the Water Code, relating to irrigation districts.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983.]

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

SECTION 1. Section 22840.5 is added to the Water Code, to read:

22840.5. Notwithstanding any other provision of law, the board may elect a chairperson from its members and may elect, in addition to a chairperson, a vice chairperson who shall have the power to perform all the duties of the chairperson in the absence of the chairperson, or in the event of his or her inability to perform those duties. If the board elects a chairperson or vice chairperson, any reference to president or vice president in any provision of this division, other than this chapter, means the chairperson or vice chairperson of the board. The board may, in this case, designate a chief staff person to be known as the president.

SEC. 2. Section 22848 of the Water Code is amended to read:

22848. The same person may hold the office of president, secretary, treasurer, assessor, and collector, or any of those offices.

CHAPTER 578

An act to add Section 18955 to the Government Code, relating to state employment.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983.]

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

SECTION 1. Section 18955 is added to the Government Code, to read:

18955. Examinations for those classes designated as supervisory level peace officers in the Department of Corrections and Youth Authority, with respect to those peace officers enumerated in Section 830.5 of the Penal Code, shall be job related and shall include measurable examination components which allow for objective scoring of applicants' responses, as developed by the board.

CHAPTER 579

An act to add Section 14088.1 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 30, 1983.]

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

SECTION 1. Section 14088.1 is added to the Welfare and Institutions Code, to read:

14088.1. Prior to entering into any contract for primary care case management under this chapter, the department shall provide public notice of its intent to enter into such a contract.

CHAPTER 580

An act to amend Section 1035.2 of the Evidence Code, relating to evidence.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 31, 1983]

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

SECTION 1. Section 1035.2 of the Evidence Code is amended to read:

1035.2. As used in this article, "sexual assault victim counselor" means a person who is engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and meets either of the following requirements:

(a) Is a psychotherapist as defined in Section 1010; or has a master's degree in counseling or a related field; or has two years of supervised counseling experience, at least one of which is in rape crisis counseling.

(b) Has 40 hours of training as described in this subdivision and is supervised by an individual who qualifies as a counselor under subdivision (a). The training, to be supervised by a person qualified under subdivision (a), shall include, but not be limited to, the following areas: law, medicine, societal attitudes, crisis intervention and counseling techniques, role playing, referral services, and sexuality.

CHAPTER 581

An act to amend Sections 17913, 17916, 17921, and 17929 of the Business and Professions Code, relating to fictitious business name statements.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 17913 of the Business and Professions Code is amended to read:

17913. (a) The fictitious business name statement shall contain all of the information required by this subdivision and shall be substantially in the following form:

FICTITIOUS BUSINESS NAME STATEMENT

The following person (persons) is (are) doing business as * ____
at ** _____ :
*** _____
_____
_____
_____

This business is conducted by ****_____
Signed _____
Statement filed with the County Clerk of _____ County on
_____

NOTICE—THIS FICTITIOUS NAME STATEMENT EXPIRES ON DECEMBER 31, 19____. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED PRIOR TO DECEMBER 31, 19____.

(b) The statement shall contain the following information set forth in the manner indicated in the form provided by subdivision (a):

(1) Where the asterisk (*) appears in the form, insert the fictitious business name or names. Only those businesses operated at the same address may be listed on one statement.

(2) Where the two asterisks (**) appear in the form: If the registrant has a place of business in this state, insert the street address of his principal place of business in this state. If the registrant has no place of business in this state, insert the street address of his principal place of business outside this state.

(3) Where the three asterisks (***) appear in the form: If the registrant is an individual, insert his full name and residence address. If the registrant is a partnership or other association of persons, insert the full name and residence address of each general partner. If the

registrant is a business trust, insert the full name and residence address of each trustee. If the registrant is a corporation, insert the name of the corporation as set out in its articles of incorporation and the state of incorporation.

(4) Where the four asterisks (****) appear in the form, insert whichever of the following best describes the nature of the business: (i) "an individual," (ii) "a general partnership," (iii) "a limited partnership," (iv) "an unincorporated association other than a partnership," (v) "a corporation," (vi) "a business trust," (vii) "copartners," (viii) "husband and wife," (ix) "joint venture," or (x) "other—please specify."

SEC. 2. Section 17916 of the Business and Professions Code is amended to read:

17916. Presentation for filing of a fictitious business name statement and one copy, tender of the filing fee, and acceptance of the statement by the county clerk constitute filing under this chapter. The county clerk shall note on the copy the file number, the date of filing the original, and the date of expiration and shall certify and deliver or send the copy to the registrant.

SEC. 3. Section 17921 of the Business and Professions Code is amended to read:

17921. Notice of the date of expiration shall be on the fictitious business name statement form.

SEC. 4. Section 17929 of the Business and Professions Code is amended to read:

17929. (a) The fee for filing a fictitious business name statement is ten dollars ($10) for the first fictitious business name and two dollars ($2) for each additional fictitious business name filed on the same statement and doing business at the same location. This fee covers the cost of filing and indexing the statement (and any affidavit of publication), furnishing one certified copy of the statement to the person filing the statement.

(b) The ten-dollar ($10) fee for filing a fictitious business name statement shall include up to one partner operating under the fictitious business name statement. A fee of two dollars ($2) shall be charged for each additional partner operating under the same fictitious business name statement.

(c) The fee for filing a statement of abandonment of use of a fictitious business name is five dollars ($5). This fee covers the cost of filing and indexing the statement and any affidavit of publication.

(d) The fee for filing a statement of withdrawal from partnership operating under fictitious business name is five dollars ($5). This fee covers the cost of filing and indexing the statement and any affidavit of publication.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 582

An act to amend Section 11011.1 of the Government Code, relating to surplus state land.

[Approved by Governor August 30, 1983 Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 11011.1 of the Government Code is amended to read:

11011.1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), (d), and (e), transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value. No surplus land shall be sold for less than fair market value, however, to any person or agency, whether public or private, unless the contract for sale provides for the reversion of the land to the state if the stated purpose for which the property is sold is not achieved.

(b) Where the land is to be used for park and recreation purposes and operated for those purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if the transfer is in the public interest, under the following conditions:

(1) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(2) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where the land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State

Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under any of the following conditions:

(1) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation.

(2) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale.

(4) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, if the state has held title to the land for seven years or less and the land is not used for the purposes for which it was acquired, and the land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state, prior to offering the land to local agencies, shall extend to the individual from whom the land was acquired an offer to purchase the land at current fair market value. The offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated. The land may be transferred to local agencies at a reasonable cost which will enable the provision of housing for persons and families of low or moderate income. The cost may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for the housing in the community.

(B) The land is suitable for development of the housing.

(2) The local agency develops a plan for the housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. The plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of the property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease or sell the property to any nonprofit corporation, housing corporation, limited dividend housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing the private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income for not less than 40 nor more than 55 years. A lessee or purchaser of land pursuant to this subdivision shall agree to limitations on profit in the operation of the property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. The agreement shall be binding upon successors in interest of the original lessee or purchaser and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low- or moderate-income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose for not less than 40 nor more than 55 years, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of the property, at the time of the department's determination of noncompliance, plus 6 percent interest on that amount for the period of time the land has been held by the local agency.

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low- or moderate-income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing

and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months. The aggregate time for commencing development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that, if development has not commenced within that time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more of those agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(8) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(e) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and provided no local agency has acquired or is in the process of acquiring the land pursuant to subdivision (d), the Director of General Services, with the approval of the State Public Works Board, may lease or sell the land to a housing sponsor. The land may be sold or leased at a reasonable cost which may be less than fair market value. The Department of Housing and Community Development shall recommend to the Director of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:

(1) The housing sponsor has submitted a plan for the development of such housing pursuant to criteria established by the Department of Housing and Community Development. The criteria shall include, but need not be limited to, standards with respect to the cost of the housing development and the proportion of the housing development to be occupied by persons and families of low and moderate income. Insofar as is practical, the plan shall provide for a mix of housing for all income groups.

(2) The housing development shall normally be developed or be

under development within 24 months from the time of transfer or lease of the land to the housing sponsor. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may, upon finding justifiable cause, extend the time for commencement of development for an additional period of 36 months. The aggregate of all extensions for commencement of development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that if development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(3) Transfer of title to the land or lease of the land to a housing sponsor shall be conditioned upon continued use of the property as housing for persons and families of low and moderate income for not less than 40 nor more than 55 years. In accordance with regulations which shall be adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act, the Director of General Services shall require that any housing sponsor purchasing or leasing land pursuant to this subdivision enter into an agreement which (A) provides for limitations on profit in the operation of such property which benefit the public and which assure that the housing is affordable to persons and families of low and moderate income, and (B) does not permit the use of the property for purposes other than the provision of housing for persons and families of low and moderate income except as provided in this subdivision. Upon recordation of the agreement in the office of county recorder in the county in which the real property subject to the agreement is located, the agreement shall be binding for a period of not less than 40 nor more than 55 years upon successors in interest to the original housing sponsor and shall inure to the benefit of, and be enforceable by, the state.

For the purposes of this subdivision, "housing sponsor" means a nonprofit corporation 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-dividend housing corporation; or a private housing developer who agrees to the conditions set forth in this subdivision.

(4) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(f) The Department of Housing and Community Development, in consultation with the Department of General Services and the

Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (d).

(g) Where the land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. The transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions which he or she determines to be in the best interest of the state.

(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and the Department of General Services shall offer the land accordingly.

(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer the lands for housing pursuant to subdivision (d).

(j) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing for persons and families of low or moderate income.

CHAPTER 583

An act to amend Sections 7551 and 7553 of the Government Code, relating to gold medallions.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 31, 1983]

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

SECTION 1. Section 7551 of the Government Code is amended to read:

7551. The Department of General Services shall cause to be designed a series of commemorative gold medallions in not less than 1 troy ounce, .5 troy ounce, and .25 troy ounce sizes of .999 fine gold.

SEC. 2. Section 7553 of the Government Code is amended to read:

7553. Upon the showing of sufficient interest by gold producers, the department shall contract with a registered, certified mint for the minting of gold medallions in an amount and in such sizes as deemed appropriate. Gold producers shall provide all gold bullion necessary for minting and shall deliver it to the mint for processing. They shall pay in advance to the department a fee sufficient to cover all minting and handling costs; royalty fees for the use of the seal; and reimbursement costs to the department for designing the medallions.

CHAPTER 584

An act to amend Section 30715 of the Public Resources Code, relating to coastal resources.

[Approved by Governor August 30, 1983 Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 30715 of the Public Resources Code is amended to read:

30715. (a) Until such time as a port master plan or any portion thereof has been certified, the commission shall permit developments within ports as provided for in Chapter 7 (commencing with Section 30600). After a port master plan or any portion thereof has been certified, the permit authority of the commission provided in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the commission over any new development contained in the certified plan or any portion thereof and shall at that time be delegated to the appropriate port governing body, except that approvals of any of the following categories of development by the port governing body may be appealed to the commission:

(1) Developments for the storage, transmission, and processing of liquefied natural gas and crude oil in such quantities as would have a significant impact upon the oil and gas supply of the state or nation or both the state and nation. A development which has a significant impact shall be defined in the master plans.

(2) Waste water treatment facilities, except for those facilities which process waste water discharged incidental to normal port activities or by vessels.

(3) Roads or highways which are not principally for internal circulation within the port boundaries.

(4) Office and residential buildings not principally devoted to the administration of activities within the port; hotels, motels, and shopping facilities not principally devoted to the sale of commercial goods utilized for water-oriented purposes; commercial fishing facilities; and recreational small craft marina related facilities.

(5) Oil refineries.

(6) Petrochemical production plants.

(b) If maintenance dredging is part of, or is associated with, any category of development specified in paragraphs (1) to (6), inclusive, of subdivision (a), the commission shall not consider that maintenance dredging in its review and approval of those categories.

CHAPTER 585

An act to amend, repeal, and add Sections 14005 and 14007 to, and to add and repeal Sections 513 and 14001.1 of, the Elections Code, relating to elections.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 513 is added to the Elections Code, to read:

513. The Secretary of State shall prepare and provide to each county clerk signs to be posted in accordance with Sections 14001.1 and 14007.

This section shall remain in effect until January 1, 1990, and as of that date is repealed.

SEC. 2. Section 14001.1 is added to the Elections Code, to read:

14001.1. (a) The Secretary of State shall prepare and provide to each county clerk a sign which contains substantially the following language: "Damaging or tampering with election voting equipment or official materials of the polling place is a felony, punishable by imprisonment for 2, 3, or 4 years. (Elections Code, 29645)."

(b) The Secretary of State shall supply the signs referred to in this section to each county clerk in the quantities and at the times requested by that clerk.

This section shall remain in effect until January 1, 1990, and as of that date is repealed.

SEC. 3. Section 14005 of the Elections Code is amended to read:

14005. The clerk shall furnish to the precinct officers:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14231, 14232, 14241, 14244, 14248, 14249, 14403, 17001, 17004, 17005, 17009, 17010, 17011, 29470, 29480, 29644, and 29649.

(e) A digest of the election laws with any further instructions the county clerk may desire to make.

(f) An American Flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.

(g) A ballot container, properly marked on the outside indicating its contents.

(h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.

(i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross + may be made with either end. If ballots are to be counted by vote tabulating equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.

(j) When a candidate or candidates have qualified to have his or their names counted pursuant to Chapter 9 (commencing with Section 17100) of Division 12, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of such candidate or candidates.

(k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her precinct location. The card shall state that the voter may call collect during polling hours.

(*l*) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.

(m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14203.

(n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14251 of the Elections Code. Any person who removes, tears, marks or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining

the name, address or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

(o) A roster of voters for each precinct in the form prescribed in Section 14005.5.

(p) In addition, the clerk may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

(q) The signs described in Section 14001.1.

This section shall remain in effect until January 1, 1990, and as of that date is repealed.

SEC. 4. Section 14005 is added to the Elections Code, to read:

14005. The clerk shall furnish to the precinct officers:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14231, 14232, 14241, 14244, 14248, 14249, 14403, 17001, 17004, 17005, 17009, 17010, 17011, 29470, 29480, 29644, and 29649.

(e) A digest of the election laws with any further instructions the county clerk may desire to make.

(f) An American Flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.

(g) A ballot container, properly marked on the outside indicating its contents.

(h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.

(i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross (+) may be made with either end. If ballots are to be counted by vote tabulating equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.

(j) When a candidate or candidates have qualified to have his or their names counted pursuant to Chapter 9 (commencing with Section 17100) of Division 12, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of such candidate or candidates.

(k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her precinct location. The card shall state that the voter may call collect during polling hours.

(*l*) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the

precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.

(m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14203.

(n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14251 of the Elections Code. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

(o) A roster of voters for each precinct in the form prescribed in Section 14005.5.

(p) In addition, the clerk may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

This section shall become operative on January 1, 1990.

SEC. 5. Section 14007 of the Elections Code is amended to read:

14007. (a) All officers required by law to designate polling places shall furnish the polling places with a sufficient number of places, booths, or compartments, at or in which voters may conveniently mark their ballots, so that they may be screened from the observation of others. Each place, compartment, or booth shall be so adjusted as to conceal from any observation the voter's marking of the ballot. The number of voting booths or compartments shall be determined by the officer conducting the election.

(b) Within each voting booth or compartment shall be posted, in plain view, a sign described in Section 14001.1.

This section shall remain in effect until January 1, 1990, and as of that date is repealed.

SEC. 6. Section 14007 is added to the Elections Code, to read:

14007. All officers required by law to designate polling places shall furnish the polling places with a sufficient number of places, booths, or compartments, at or in which voters may conveniently mark their ballots, so that they may be screened from the observation of others. Each place, compartment, or booth shall be so adjusted as to conceal from any observation the voter's marking of the ballot. The number of voting booths or compartments shall be determined by the officer conducting the election.

This section shall become operative on January 1, 1990.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 586

An act to add Chapter 3 (commencing with Section 22101) to Part 3 of Division 2 of the Public Contract Code, relating to electronic data processing.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Chapter 3 (commencing with Section 22101) is added to Part 3 of Division 2 of the Public Contract Code, to read:

CHAPTER 3. ACQUISITION OF ELECTRONIC DATA PROCESSING

22101. The Legislature has found that electronic data-processing equipment, goods, and services are unique, and of such importance to state programs as to warrant a separate acquisition authority therefor. The Legislature finds that the Southern California Rapid Transit District has needs similar to the state with respect to acquisition of electronic data-processing goods and services.

22102. For purposes of this chapter, "district" means the Southern California Rapid Transit District.

22103. (a) Acquisition of electronic data-processing goods and services by the district shall be conducted through competitive means, except when the district determines one of the following:

(1) The goods and services proposed for acquisition are the only goods and services which can meet the district's needs.

(2) The goods and services are needed in case of an emergency where immediate acquisition is necessary for the efficient operation and preservation of the district's services.

(b) The mode of acquisition to be used and the procedure to be followed shall be approved by the district which shall adopt appropriate criteria and procedures to ensure compliance with the intent of this chapter. However, the procedure shall provide for issuance by the district of a solicitation document to, and for the submission of proposals by, prospective contractors.

22104. (a) Contract awards shall be based on the proposal which provides the most cost-effective solution to the district's requirements, as determined by the evaluation criteria contained in the solicitation document. The evaluation procedures may provide for the selection of a vendor on a basis other than cost alone.

(b) Evaluation of proposals for the purpose of determining

contract award shall provide for consideration of a proposer's best financing alternative unless the district determines that a particular financing alternative should not be considered.

(c) A vendor may be excluded from proposal processes, if the vendor's performance with respect to a previously awarded contract has been determined unsatisfactory by the district, provided that the exclusion shall not exceed one year for any one determination of unsatisfactory performance and provided further that any excluded vendor may at any time during the exclusion be reinstated upon demonstration to the district's satisfaction that the problems which resulted in his or her exclusion have been corrected.

(d) To the extent practical, the solicitation documents shall provide for a contract to be written to enable acquisition of additional items to avoid essentially redundant acquisition processes when it can be determined that it is economical to do so.

22105. Protest procedures shall be provided to allow proposers an opportunity to formally protest any acquisition conducted in accordance with this chapter. Authority to protest may be limited to participating proposers. The procuring officer of the district, or the person designated by the procuring officer, is authorized to consider and decide on initial protests. A decision regarding an initial protest shall be final. If, prior to making an award, any proposer who submitted an offer files a protest with the district against awarding the contract or purchase order on the ground that his or her bid or proposal should have been selected in accordance with the selection criteria in the selection document, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the district has made a final decision as to the action to be taken on the protest. A protestor, within 10 calendar days of filing a protest, shall file with the district a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

22106. Electronic data-processing goods which are determined to be surplus to the district's needs shall be disposed of in a manner best serving the interests of the district, which may include auction, sale, or transfer to other governmental entities.

22107. The district may establish policies and procedures for all of the following:

(a) Price negotiation with respect to all acquisitions conducted under this chapter.

(b) System or equipment component performance or availability standards, including an assessment of the added cost to the district to receive contractual guarantee of a level of performance.

(c) Requirement of a bond or assessment of a cost penalty with respect to a contract or consideration of a contract offered by a vendor whose performance has been determined unsatisfactory by the district.

22108. The district may adopt additional rules and regulations consistent with the provisions of this chapter.

22109. Any contract for electronic data-processing goods and services, to be manufactured or performed by the contractor especially for the district and not suitable for sale to others in the ordinary course of the contractor's business, may provide for such terms and conditions as the district deems necessary to protect its interests including, but not limited to, progress payments as the work is performed, provided that at least 10 percent of the contract price is required to be withheld until final delivery and acceptance of the goods or services, and that the contractor is required to submit a performance bond of at least one half the total payable under the contract.

SEC. 2. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 587

An act to amend Section 23803 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 30, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 23803 of the Business and Professions Code is amended to read:

23803. The department, upon its own motion or upon the petition of a licensee or a transferee who has filed an application for the transfer of the license, if it is satisfied that the grounds which caused the imposition of the conditions no longer exist, shall order their removal.

Any petition for the removal or modification of a condition pursuant to this section shall be accompanied by a fee of one hundred dollars ($100).

CHAPTER 588

An act to amend Section 22200 of the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor August 31, 1983 Filed with Secretary of State August 31, 1983]

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

SECTION 1. Section 22200 of the Education Code is amended to read:

22200. The system is managed by the Teachers' Retirement Board. The members of the board are as follows:

(a) The Superintendent of Public Instruction.

(b) The Controller.

(c) The Treasurer.

(d) One member who, at the time of appointment, is a member of the governing board of a school district or a community college district.

(e) Two members of the State Teachers' Retirement System who, at time of appointment, are classroom teachers in grades kindergarten through 14.

(f) One member of the system.

(g) A retirant of the system.

(h) One officer of a life insurance company appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(i) One officer of a bank or a savings and loan institution who has had at least five years of broad professional investment experience handling various asset classes such as stocks, bonds, and mortgage investments and who shall be appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(j) One member representing the public, appointed by the Governor for a term of four years, subject to confirmation by the Senate.

The members of the board provided by subdivisions (d), (e), (f), and (g) shall be appointed by the Governor for four-year terms from a list submitted by the Superintendent of Public Instruction.

The members of the board shall annually elect a chairperson and vice chairperson.

SEC. 2. There is hereby appropriated from the Teacher's Retirement Fund the sum of four thousand dollars ($4,000) to pay the costs of implementing this act during fiscal year 1983–84.

CHAPTER 589

An act to amend Sections 1601, 1602, and 1603 of the Business and Professions Code, relating to the Board of Dental Examiners.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 1601 of the Business and Professions Code is amended to read:

1601. There is in the Department of Consumer Affairs a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of eight practicing dentists, one registered dental hygienist, and four public members.

SEC. 2. Section 1602 of the Business and Professions Code is amended to read:

1602. All of the members of the board, except the public members, shall have been actively and legally engaged in the practice of dentistry in the State of California, for at least five years next preceding the date of their appointment. The dental hygienist member shall have been a registered dental hygienist in the State of California for at least five years next preceding the date of their appointment. The public members shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600. No more than one member of the board shall be a member of the faculty of any dental college or dental department of any medical college in the State of California. None of the members, including the public members, shall have any financial interest in any such college.

SEC. 3. Section 1603 of the Business and Professions Code is amended to read:

1603. Members of the board shall be appointed for a term of four years, and each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

A vacancy occurring during a term shall be filled by appointment for the unexpired term, within 30 days after it occurs.

No person shall serve as a member of the board for more than two terms.

The Governor shall appoint two of the public members, the dental hygienist member, and the eight licensed dentist members of the board. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

The Governor shall appoint the dental hygienist member on or

after January 1, 1984. The initial term of the dental hygienist member shall expire on January 1, 1988.

CHAPTER 590

An act to amend Section 925a of the Penal Code, relating to grand juries.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 925a of the Penal Code is amended to read:

925a. The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit.

The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency.

As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county.

CHAPTER 591

An act to amend Section 935.6 of the Government Code, relating to claims against the state.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 935.6 of the Government Code is amended to read:

935.6. (a) The State Board of Control, by rule, may authorize any state agency to adjust and pay claims where the settlement does not exceed one thousand dollars ($1,000) or such lesser amount as the

board may determine and, except for claims under one hundred dollars ($100), the Director of Finance certifies that a sufficient appropriation for the payment of such claims exists.

(b) Except for payments under one hundred dollars ($100), payments shall be made only upon approval of the settlement by the board.

(c) As used in this section, "state agency" means any office, officer, department, division, bureau, board, commission, or agency of the state, claims against which are paid by warrants drawn by the Controller.

CHAPTER 592

An act to amend Sections 20021, 20023, 21051, 21059, and 21066 of, and to add Section 20028 to, the Food and Agricultural Code, relating to cattle.

[Approved by Governor August 31, 1983 Filed with Secretary of State August 31, 1983]

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

SECTION 1. Section 20021 of the Food and Agricultural Code is amended to read:

20021. "Modified point of origin inspection," as provided in Sections 21111 and 21112, pertains only to the inspection of cattle where there is no sale within a designated modified point of origin inspection area prior to transportation for pasture-to-pasture purposes when crossing the area boundary.

SEC. 2. Section 20023 of the Food and Agricultural Code is amended to read:

20023. "Full point of origin inspection" as provided in Sections 21141 and 21141.5 means the inspection of all cattle, except as herein excepted, prior to transportation across the area boundary. However, pasture-to-pasture movement within the area is permitted without inspection, and cattle moving to a destination point within the area shall pay the destination inspection fee only.

SEC. 3. Section 20028 is added to the Food and Agricultural Code, to read:

20028. "Transportation, transport, or transporting" as used in this division means to carry livestock from one place to another by means of a vehicle which may be propelled, moved, or drawn on land or water, or may be airborne.

SEC. 4. Section 21051 of the Food and Agricultural Code is amended to read:

21051. Except as otherwise provided in this chapter, cattle shall be inspected as follows:

(a) Prior to movement or branding, whichever occurs first, when

cattle are sold or ownership is transferred.

(b) Prior to transportation out of any designated modified point-of-origin inspection area, for purposes other than sale or slaughter and no change of ownership is involved, as provided in Section 21111.

(c) Prior to transportation out of the state.

(d) Upon entry into a registered feedlot.

(e) Prior to slaughter.

(f) Prior to release or sale from a public stockyard, public saleyard, or public or private cattle sales market.

(g) Prior to release from a posted stockyard or posted saleyard.

(h) Prior to transportation out of a full point-of-origin area, as provided in Section 21141.

(i) Prior to transportation or movement from premises designated as quarantine, restriction, or isolated areas pursuant to Section 9565.

SEC. 5. Section 21059 of the Food and Agricultural Code is amended to read:

21059. Inspection is not required for pasture-to-pasture movement in the following cases:

(a) When the cattle are moved or transported only between points in the same modified point-of-origin inspection area.

(b) When the cattle are moved or transported across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved or transported only between points within a full point-of-origin area.

(d) When cattle are moved or transported across a modified point-of-origin inspection area boundary in accordance with regulations adopted by the director which specifically allow the cattle to move under a permit for a distance not to exceed 40 miles from loading point to destination. The director may establish a fee for the permit for a 12-month period. The permit fee shall not exceed two hundred dollars ($200).

(e) When female cattle of the dairy breeds are moved or transported from one grazing or pasture area to another grazing or pasture area and the areas are owned or controlled by the same person. However, this movement shall be accompanied by a certificate of ownership or other proof of ownership document.

The provisions of subdivision (i) of Section 21051 shall take precedence over this section.

This section does not apply to cattle entering a registered feedlot.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 5.5. Section 21059 of the Food and Agricultural Code is amended to read:

21059. Inspection is not required for pasture-to-pasture movement in the following cases:

(a) When the cattle are moved or transported only between points in the same modified point-of-origin inspection area.

(b) When the cattle are moved or transported across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved or transported only between points within a full point-of-origin area.

(d) When cattle are moved or transported across a modified point-of-origin inspection area boundary in accordance with regulations adopted by the director which specifically allow the cattle to move under a permit for a distance not to exceed 40 miles from loading point to destination. The director may establish a fee for the permit for a 12-month period. The permit fee shall not exceed two hundred dollars ($200).

(e) When female cattle of the dairy breeds are moved or transported from one grazing or pasture area to another grazing or pasture area and the areas are owned or controlled by the same person. However, this movement shall be accompanied by a certificate of ownership or other proof of ownership document.

The provisions of subdivision (i) of Section 21051 shall take precedence over this section.

This section does not apply to cattle entering a registered feedlot.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 6. Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, of the Food and Agricultural Code is amended to read:

21059. Inspection is not required for pasture-to-pasture movement in the following cases:

(a) When the cattle are moved or transported only between points in the same modified point-of-origin inspection area.

(b) When the cattle are moved or transported across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved or transported only between points within a full point-of-origin area.

This section does not apply to cattle entering a registered feedlot.

This section shall become operative on June 30, 1987.

SEC. 6.5. Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, of the Food and Agricultural Code is amended to read:

21059. Inspection is not required for pasture-to-pasture movement in the following cases:

(a) When the cattle are moved or transported only between points in the same modified point-of-origin inspection area.

(b) When the cattle are moved or transported across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved or transported only between points within a full point-of-origin area.

This section does not apply to cattle entering a registered feedlot.

This section shall become operative on June 30, 1987.

SEC. 7. Section 21066 of the Food and Agricultural Code is amended to read:

21066. Except as otherwise provided in subdivisions (b) and (h) of Section 21051, all cattle transported within the state for pasture or feeding purposes with no change in ownership shall be accompanied by a certificate of consignment which contains the information specified in Section 21703.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill 475 are both chaptered and become effective January 1, 1984, both bills amend Section 21059 of the Food and Agricultural Code, and this bill is chaptered after Assembly Bill 475, that the amendments to Section 21059 proposed by both bills be given effect and incorporated in Section 21059 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and Assembly Bill 475 are both chaptered and become effective January 1, 1984, both amend Section 21059, and this bill is chaptered after Assembly Bill 475, in which case Section 5 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature, if this bill and Assembly Bill 475 are both chaptered and become effective January 1, 1984, both bills amend Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, of the Food and Agricultural Code, and this bill is chaptered after Assembly Bill 475, that the amendments to Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, proposed by both bills be given effect and incorporated in Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill 475 are both chaptered and become effective January 1, 1984, both amend Section 21059, as added by Section 2 of Chapter 868 of the Statutes of 1980, and this bill is chaptered after Assembly Bill 475, in which case Section 6 of this act shall not become operative.

CHAPTER 593

An act to amend Section 11503 of the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor August 31, 1983 Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 11503 of the Food and Agricultural Code is amended to read:

11503. The commissioner of any county may adopt regulations applicable in his or her county which are supplemental to those of the director which govern the conduct of pest control operations and records and reports of those operations. The regulations may include provisions pertaining to any matter related to the accomplishment of the purposes of Section 11737. The provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall be followed insofar as practicable in the adoption of the regulations by the commissioner. The regulations shall be filed with the director who shall compile them.

Each regulation of the commissioner shall be approved by the director before it becomes operative. The director, in his or her review of the commissioner's regulations, shall consider, but not be limited to considering, the necessity, authority, clarity, and consistency of the regulations, as these terms are defined in Section 11349 of the Government Code.

CHAPTER 594

An act to add Article 7 (commencing with Section 5610) to Chapter 3 of Division 3 of the Business and Professions Code, relating to architects.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Article 7 (commencing with Section 5610) is added to Chapter 3 of Division 3 of the Business and Professions Code, to read:

Article 7. Architectural Corporations

5610. An architectural corporation is a corporation which is registered with the California State Board of Architectural Examiners and has a currently effective certificate of registration from the board 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 this article. Subject to all applicable statutes, rules and regulations, an architectural corporation is entitled to practice architecture. With respect to an architectural corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the

California State Board of Architectural Examiners.

5610.1. An applicant for registration as an architectural corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation. The board may provide forms of application. If the board finds that the corporation is duly organized and existing pursuant to the General Corporation Law, that each officer, director, shareholder and each employee who will render professional services is a licensed person as defined in the Moscone-Knox Professional Corporation Act, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of the board, the board shall, on payment of the registration fee in an amount it may determine, issue a certificate of registration. The application shall be signed and verified by an officer of the corporation.

5610.2. Each architectural corporation shall file with the board at such times as the board may require a report containing information pertaining to qualification and compliance with the statutes, rules, and regulations of the board as the board may determine. The fee for filing such a report shall be fixed by the board. All reports shall be signed and verified by an officer of the corporation.

5610.3. The name of an architectural corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders, or of persons who were associated with a predecessor person, partnership, or other organization and whose name or names appeared in the name of the predecessor organization, and shall include either (1) the words "architectural corporation" or (2) the word "architect" or "architects" and wording or abbreviations denoting corporate existence.

5610.4. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of an architectural corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

5610.5. The income of an architectural corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of such shareholder or his or her shares in the architectural corporation.

5610.6. An architectural 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, rule, or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules, and regulations to the same extent as a person holding a certificate under Section 5551. The board shall have the same powers of suspension, revocation, and discipline against an architectural corporation as are now or hereafter

authorized by Section 5560, or by any other similar statute against individual licensees, provided, however, that proceedings against an architectural corporation 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.

5610.7. The board shall formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of an architectural corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as such rules and regulations may provide, and (b) that an architectural corporation, as a condition of obtaining a certificate pursuant to the Moscone-Knox Professional Corporation Act and this article, shall provide adequate security by insurance or otherwise for claims against it by its clients arising out of the rendering of professional services.

CHAPTER 595

An act to amend Sections 19406, 19413.2, 19491.7, 19612.3, and 19619 of the Business and Professions Code, relating to horseracing.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. 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.

(c) A "California-bred quarter horse" is a quarter horse foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned, or any quarter horse foal which is conceived in California on or after January 1, 1981.

(d) A "California-bred standardbred horse" is a standardbred foal

dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned, or any standardbred foal which is conceived in California on or after January 1, 1984.

SEC. 2. Section 19413.2 of the Business and Professions Code is amended to read:

19413.2. "Standardbred breeder" means the owner of the dam of a standardbred foal at the time the foal was conceived.

SEC. 3. Section 19491.7 of the Business and Professions Code is amended to read:

19491.7. Notwithstanding any other provision of law, all breakage deducted pursuant to Section 19597 by an association licensed to conduct harness racing shall be used to fund the California Standardbred Sires Stakes Program as set forth in subdivision (f) of Section 19619.

SEC. 4. Section 19612.3 of the Business and Professions Code is amended to read:

19612.3. (a) Notwithstanding any other provision of law, with respect to harness racing associations other than those conducting a meeting pursuant to Section 19612.6, an additional 1 percent of the parimutuel pool shall be retained and shall be distributed equally between license fees, purses, and commissions.

(b) With respect to harness racing associations conducting a meeting pursuant to Section 19549.2 or 19612.6, an additional 1 percent of the parimutuel pool shall be retained and shall be distributed as additional commissions.

SEC. 5. Section 19619 of the Business and Professions Code is amended to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season.

(c) Responsibility for the California Standardbred Sires Stakes Program shall lie with the board. Administration of the California Standardbred Sires Stakes Program shall be mutually carried out by the harness horsemen's organization contracting with the associations with respect to the conduct of racing meetings and the organization responsible for the registration of California-bred harness horses. Administrative expenses in any given year shall not exceed 4 percent of that year's income to the California Standardbred Sires Stakes Program, and all expenses shall be approved by the board.

(d) The board is authorized to do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall prepare, issue, and promulgate

rules and regulations providing for the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining, and entry fees for horses and races.

(3) Registration and certification of California stallions, mares bred to those stallions, and foals produced thereby.

(4) Any other matter which is considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Standardbred Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining, and entry fees provided for in this section shall be deposited into a separate trust account in the State Treasury. All funds in the trust account are continuously appropriated to the board for expenditure for carrying out the purposes of the California Standardbred Sires Stakes Program. The board may expend funds from the trust account which are sufficient to meet the requirements of the Standardbred Sires Stakes Program, but in amounts not to exceed the total of funds deposited. All disbursements from the trust account for the payment of purses and awards, cost of administration, and any other appropriate expenses shall be made by the chairman of the board or his designee. The board shall annually make a full report setting forth an itemization of all deposits to the trust account, an itemization of expenditures from the trust account, and an estimate on an annual basis for the following five-year period of income to the trust account and distribution from the trust account.

(f) Pursuant to Section 19491.7, the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	Purses
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
January 1 to June 30, 1981	75%	25%
July 1, 1981, and thereafter	100%	0%

(g) An amount equal to 10 percent of the total purses raced for in the California sires stakes races, excluding amounts derived from nomination, sustaining, and entry fees, shall be awarded to the standardbred breeders of the horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total purses raced for in the California sires stakes races, excluding amounts derived from

nomination, sustaining, and entry fees, shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding subdivision (b), the board may establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two year olds and are wholly owned by a California resident on the day of the race.

(j) The balance remaining in the trust account, including nominating, sustaining, and entry fees, and after the expenditures described in subdivisions (e), (g), (h), and (i) have been made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the board in accordance with the following criteria:

(1) California standardbred sires stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at each licensed harness meeting in California, except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled.

(2) Two- and three-year-old races shall be divided into colt and filly divisions.

(3) Base purses for the foals of any given year at any race meeting, with the exception of championship races which may be scheduled and excluding purses derived from nomination, sustaining, and entry fees, shall be equal for all two-year-old and three-year-old races regardless of sex and gait, except that, if divisions are raced, the base purse for each division shall be no less than 75 percent of the original base purse and, if elimination heats are raced, the base purse for each elimination heat shall be no less than 30 percent of the original base purse.

(4) In each division of each race in the California standardbred sires stake races, the purse shall be divided in the following manner:

(i) Five or more starters	
1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%
(ii) Four starters	
1st	55%
2nd	25%
3rd	12%
4th	8%

(iii) Three starters

1st	55%
2nd	30%
3rd	15%

(iv) Two starters

1st	65%
2nd	35%

(v) One starter

1st	100%

CHAPTER 596

An act to add Section 54780.3 to the Government Code, relating to local agency formation commissions.

[Approved by Governor August 31, 1983 Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 54780.3 is added to the Government Code, to read:

54780.3. (a) In a county of the third class, as determined by the 1970 federal census, having more than one city, any one of which has a population exceeding one-third of the total population of the county, and a commission of seven members, augmented pursuant to Section 54782.6, there shall be appointed an eighth member and that member shall, notwithstanding subdivision (b) of Section 54780, be a member of the legislative body of the city in the county having the largest population, appointed by the legislative body of that city.

(b) The city legislative body shall appoint an alternate member at the same time and in the same manner as it appoints the regular member appointed pursuant to subdivision (a). If the regular city member is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member is authorized to serve and vote in place of the regular city member for that meeting. In the event the office of the regular city member becomes vacant, the alternate member is authorized to serve and vote in place of the regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) The city representative initially appointed to serve pursuant to this section shall be appointed to a regular term to commence January 1, 1984.

(d) Before the end of each fiscal year, the city shall pay to the county that portion of the amount payable or paid by the county during the fiscal year pursuant to Section 54776.1 that is attributable to the additional administrative costs incurred by the county on

behalf of members serving on the commission pursuant to subdivisions (a) and (b).

SEC. 2. The Legislature finds and declares that a special act is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because special facts and circumstances are applicable to the County of San Diego which are not generally applicable statewide.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of the City of San Diego which desired legislative authority to carry out the program specified in this act.

CHAPTER 597

An act to amend Sections 71.4 and 80.2 of the Harbors and Navigation Code, relating to boating and waterways.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983]

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

SECTION 1. Section 71.4 of the Harbors and Navigation Code is amended to read:

71.4. The department, subject to the approval of the Legislature in accordance with Section 85.2, may make loans to cities, counties, or districts having power to acquire, construct, and operate small craft harbors, for the planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection therewith, and connecting waterways, if the department finds that the project is feasible. The department shall establish, by rules and regulations, policies and standards to be followed in making loans pursuant to this section so as to further the proper development and maintenance of a statewide system of small craft harbors and connecting waterways. Any such loan shall be repaid as provided in Section 70.

Rates to be charged for the use of the boating facilities shall be established by the city, county, or district, subject to the approval of the department, in every loan contract. The department shall concern itself with the rates charged only as prescribed in Section 71.8. The rates set shall be based on a monthly berthing charge.

The department shall monitor these rates to ensure that the berthing charges are reasonable and not exorbitant.

The department shall submit any project for which it recommends any loan be made to the Governor for inclusion in the Budget Bill.

SEC. 2. Section 80.2 of the Harbors and Navigation Code is

amended to read:

80.2. The commission shall be composed of seven members appointed by the Governor, with the advice and consent of the Senate. The members shall have experience and background consistent with the functions of the commission. In making appointments to the commission, the Governor shall give primary consideration to geographical location of the residence of members as related to boating activities and harbors. In addition to geographical considerations, the members of the commission shall be appointed with regard to their special interests in recreational boating. At least one of the members shall be a member of a recognized statewide organization representing recreational boaters. One member of the commission shall be a private small craft harbor owner and operator.

The Governor shall appoint the first seven members of the commission for the following terms to expire on January 15th: one member for one year, two members for two years, two members for three years, and two members for four years. Thereafter appointments shall be for a four-year term. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

CHAPTER 598

An act to add Section 607 to the Health and Safety Code, relating to public health.

[Approved by Governor August 31, 1983 Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 607 is added to the Health and Safety Code, to read:

607. (a) The Legislature finds that conflicting definitions of "public health nurse" have been created by various state and local agencies within California. The Legislature also finds that the public is harmed by the conflicting usage of the term "public health nurse" in a title and lack of correspondence between the use of this term and the qualifications required in state law and in administrative regulations. Therefore, the Legislature finds the public interest would be served by determining the conditions for the legitimate use of a title including the term "public health nurse," by registered nurses.

(b) No individual shall hold himself or herself out as a public health nurse or hold a title including the term "public health nurse" unless that individual is in possession of a valid California public health nurse certificate pursuant to Section 1305 of Title 17 of the

California Administrative Code.

(c) No employer subject to regulation by Section 602 shall hold out any employee to be a public health nurse or grant a title to any employee including the term "public health nurse" unless that employee holds a valid California public health nurse certificate pursuant to Section 1305 of Title 17 of the California Administrative Code.

CHAPTER 599

An act to add Article 10 (commencing with Section 120470) to Chapter 4 of, and to add Chapter 6 (commencing with Section 120630) to, Division 11 of the Public Utilities Code, relating to transportation boards.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Article 10 (commencing with Section 120470) is added to Chapter 4 of Division 11 of the Public Utilities Code, to read:

Article 10. Investments

120470. Subject to any agreement or covenant between the board and the holders of any of its obligations limiting or restricting classes of investments, the board may invest any surplus money in its treasury, including money in any sinking fund, reserve fund, or other fund created or established for the benefit of holders of any outstanding obligations of the board, in any of the following:

(a) Its own bonds.

(b) Treasury notes, certificates of indebtedness, bills, bonds of the United States, or any other evidence of indebtedness secured by the full faith and credit of the United States.

(c) Obligations issued pursuant to the Federal Home Loan Bank Act (12 U.S.C. Sec. 1421 et seq.) or the National Housing Act (12 U.S.C. Sec. 1701 et seq.).

(d) Treasury notes or bonds of this state, or of any public corporation, municipal corporation, public district, or political subdivision within this state which are legal security for the deposit of public funds.

(e) Any investment in which county funds may be placed pursuant to the general laws of the state.

120471. The investment may be made by direct purchase of any issue of the bonds, treasury notes, or obligations, or part thereof, at the original sale or by the subsequent purchase of the bonds, treasury notes, or obligations.

120472. Any bonds, treasury notes, or obligations purchased and held as investments by the board may, from time to time, be sold and the proceeds reinvested in bonds, treasury notes, or obligations as provided in this article.

120473. Sales of any bonds, treasury notes, or obligations purchased and held by the board shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds, treasury notes, or obligations were originally purchased was placed in the treasury of the board.

SEC. 2. Chapter 6 (commencing with Section 120630) is added to Division 11 of the Public Utilities Code, to read:

CHAPTER 6. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

Article 1. Revenue Bonds

120630. The board may issue bonds, payable from revenue of any facility or enterprise to be acquired or constructed by the board, in the manner provided by the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), and all of the provisions of that law are applicable to the board.

120631. The board is a local agency within the meaning of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code). The term "enterprise," as used in the Revenue Bond Law of 1941, for all purposes of this article, includes the transit system or any or all transit facilities and all additions, extensions, and improvements thereto authorized to be acquired, constructed, or completed by the board.

The board may issue revenue bonds under the Revenue Bond Law of 1941 for any one or more transit facilities authorized to be acquired, constructed, or completed by the board or, in the alternative, the board may issue revenue bonds under the Revenue Bond Law of 1941 for the acquisition, construction, and completion of any one of those transit facilities.

Nothing in this article prohibits the board from availing itself of, or making use of, any procedure provided in this chapter for the issuance of bonds of any type or character for any of the transit facilities authorized hereunder, and all proceedings may be carried on simultaneously or, in the alternative, as the board may determine.

Article 2. Equipment Trust Certificates

120650. The board may purchase transit equipment such as cars, trolley buses, motorbuses, light rail vehicles, or rolling equipment, and may execute agreements, leases, and equipment trust certificates in the forms customarily used by private corporations

engaged in the transit business appropriate to effect the purchase and leasing of transit equipment, and may dispose of the equipment trust certificates upon the terms and conditions that the board may deem appropriate.

Payment for transit equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates that are or will be legally available to the board. Title to the equipment shall not vest in the board until the equipment trust certificates are paid.

120651. The agreement to purchase or lease may direct the vendor or lessor to sell and assign or lease the rolling equipment to a bank or trust company duly authorized to transact business in the state as trustee for the benefit and security of the equipment trust certificates, and may direct the trustee to deliver the rolling equipment to one or more designated officers of the board and may authorize the board to simultaneously therewith execute and deliver an installment purchase agreement or a lease of the equipment to the board.

120652. The agreements and leases shall be duly acknowledged before a person authorized by law to take acknowledgments of deeds and in the form required for acknowledgment of deeds.

The agreements, leases, and equipment trust certificates shall be authorized by resolution of the board and shall contain covenants, conditions, and provisions which may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from legally available source or sources of funds specified in the certificates.

120653. The covenants, conditions, and provisions of the agreements, leases, and equipment trust certificates shall not conflict with any of the provisions of any trust agreement securing the payment of bonds, notes, or certificates of the board.

120654. An executed copy of each agreement and lease shall be filed in the office of the Secretary of State, who shall be entitled to receive one dollar ($1) for each copy filed.

The filing constitutes notice to any subsequent judgment creditor or any subsequent purchaser.

Article 3. Improvement Acts and Special Benefit Districts

120670. The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), are applicable to the board.

120671. Chapter 1 (commencing with Section 99000) of Part 11 of Division 10 is applicable to the board.

Article 4. Temporary Borrowing

120680. The board may borrow money in accordance with Article 7 (commencing with Section 53820), or Article 7.6 (commencing with Section 53850), of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

120681. The board may borrow money in anticipation of the sale of bonds which have been authorized to be issued, but which have not been sold and delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time, but the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

The bond anticipation notes may be paid from any money of the board available therefor and not otherwise pledged. If not previously otherwise paid, the bond anticipation notes shall be paid from the proceeds of the next sale of the bonds of the board in anticipation of which they were issued. The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of bonds which the board has been authorized to issue, less the amount of any bonds of the authorized issue previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding.

The bond anticipation notes shall be issued and sold in the same manner as the bonds. The bond anticipation notes and the resolution or resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the board authorizing the issuance of bonds may contain.

Article 5. Miscellaneous

120700. The board may bring an action to determine the validity of any of its bonds, equipment trust certificates, warrants, notes, or other evidences of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

120701. All bonds and other evidences of indebtedness issued by the board under this chapter, and the interest thereon, are free and exempt from all taxation within the state, except for transfer, franchise, inheritance, and estate taxes.

120702. Notwithstanding any other provisions of this division or any other law, the provisions of all ordinances, resolutions, and other proceedings in the issuance by the board of any bonds, bonds with a pledge of revenues, bonds for improvement districts, revenue bonds, equipment trust certificates, notes, or any and all evidences of indebtedness or liability constitute a contract between the board and the holders of the bonds, equipment trust certificates, notes, or evidences of indebtedness or liability, and the provisions thereof are

enforceable against the board or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction.

Nothing in this division or in any other law shall be held to relieve the board or the territory included within it from any bonded or other debt or liability contracted by the board. Upon dissolution of the board or upon withdrawal of territory therefrom, that territory formerly included within the board, or withdrawn therefrom, shall continue to be liable for the payment of all bonded and other indebtedness or liabilities outstanding at the time of the dissolution or withdrawal as if the board had not been so dissolved or the territory withdrawn therefrom, and it shall be the duty of the successors or assigns to provide for the payment of the bonded and other indebtedness and liabilities.

Except as may be otherwise provided in the proceedings for the authorization, issuance, and sale of any revenue bonds, bonds secured by a pledge of revenues, or bonds for improvement districts secured by a pledge of revenues, revenues of any kind or nature derived from any revenue-producing improvements, works, facilities, or property owned, operated, or controlled by the board shall be pledged, charged, assigned, and have a lien thereon for the payment of the bonds as long as they are outstanding, regardless of any change in ownership, operation, or control of the revenue-producing improvements, works, facilities, or property and it shall, in any later event or events, be the duty of the successors or assigns to continue to maintain and operate the revenue-producing improvements, works, facilities, or property as long as bonds are outstanding.

CHAPTER 600

An act to amend Sections 30605 and 30606 of the Public Resources Code, relating to coastal zone.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 30605 of the Public Resources Code is amended to read:

30605. To promote greater efficiency for the planning of any public works or state university or college or private university development projects and as an alternative to project-by-project review, plans for public works or state university or college or private university long-range land use development plans may be submitted to the commission for review in the same manner prescribed for the review of local coastal programs as set forth in Chapter 6

(commencing with Section 30500). If any plan for public works or state university or college development project is submitted prior to certification of the local coastal programs for the jurisdictions affected by the proposed public works, the commission shall certify whether the proposed plan is consistent with Chapter 3 (commencing with Section 30200). The commission shall, by regulation, provide for the submission and distribution to the public, prior to public hearings on the plan, detailed environmental information sufficient to enable the commission to determine the consistency of the plans with the policies of this division. If any such plan for public works is submitted after the certification of local coastal programs, any such plan shall be approved by the commission only if it finds, after full consultation with the affected local governments, that the proposed plan for public works is in conformity with certified local coastal programs in jurisdictions affected by the proposed public works. Each state university or college or private university shall coordinate and consult with local government in the preparation of long-range development plans so as to be consistent, to the fullest extent feasible, with the appropriate local coastal program. Where a plan for a public works or state university or college or private university development project has been certified by the commission, any subsequent review by the commission of a specific project contained in the certified plan shall be limited to imposing conditions consistent with Sections 30607 and 30607.1. A certified long-range development plan may be amended by the state university or college or private university, but no amendment shall take effect until it has been certified by the commission. Any proposed amendment shall be submitted to, and processed by, the commission in the same manner as prescribed for amendment of a local coastal program.

SEC. 2. Section 30606 of the Public Resources Code is amended to read:

30606. Prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, or state university or college or private university, shall notify the commission and other interested persons, organizations, and governmental agencies of the impending development and provide data to show that it is consistent with the certified public works plan or long-range development plan. No development shall take place within 30 working days after the notice.

CHAPTER 601

An act to amend Section 13961 of the Government Code, relating to victims of crimes.

[Approved by Governor August 31, 1983 Filed with Secretary of State August 31, 1983.]

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

SECTION 1. 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. When an applicant's claim is for psychological or psychiatric treatment costs, the period prescribed for the filing of an application for assistance shall be five years after the date of the crime; provided, however, that an applicant using this extended claim period shall file a claim at least once annually for reimbursement of any costs incurred during the preceding year.

(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.

CHAPTER 602

An act to amend Sections 33008 and 33301 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 33008 of the Health and Safety Code is amended to read:

33008. "Planning commission" means a planning agency established pursuant to law or charter.

SEC. 2. Section 33301 of the Health and Safety Code is amended to read:

33301. The community shall have a planning agency established pursuant to law or charter.

SEC. 3. (a) Notwithstanding Section 33674 of the Health and Safety Code, any redevelopment agency which meets all of the requirements of subdivision (b) shall be entitled to be allocated and paid the portion of taxes provided by subdivision (b) of Section 33670 of the Health and Safety Code for the first time during the fiscal year commencing July 1, 1983.

(b) In order to be eligible to receive the tax increment pursuant to subdivision (a), a redevelopment agency shall have done all of the following:

(1) Transmitted the information required by Section 33327 of the Health and Safety Code to the county auditor, assessor, and tax collector and to the State Board of Equalization.

(2) Adopted a redevelopment plan which became effective after July 1, 1982, but prior to August 20, 1982.

(3) Recorded a copy of the description of the redevelopment project area and the statement required by Section 33373 of the Health and Safety Code prior to December 31, 1982.

(4) Transmitted all required documents pursuant to Section 33375 of the Health and Safety Code prior to the effective date of this

section.

(c) The county and the State Board of Equalization shall not be required, in implementing this section, to establish a tax rate area for the redevelopment project area for the fiscal year commencing July 1, 1983.

(d) 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 that date.

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

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The fact constituting the necessity are:

Certain cities are unable to exercise the authority granted by the Community Redevelopment Law because of an obsolete provision requiring the establishment of a separate commission which adds unnecessary costs upon these cities and their taxpayers and which is inconsistent with other statutory requirements. These cities are unable to take advantage of the authority granted by the Community Redevelopment Law and therefore lose opportunities which presently exist to remedy the conditions in these cities which are injurious and inimical to the public health, safety, and welfare of the people. In order to remedy this situation as soon as possible, it is necessary for this act to take effect immediately.

In addition, certain redevelopment agencies which adopted redevelopment project areas in 1982 will be unable to receive their initial allocation of tax increment moneys and commence implementation of their redevelopment projects because the State Board of Equalization did not, during 1982, receive certain documents adopted and recorded by these agencies. In order to enable these agencies to commence the elimination of the conditions within the adopted project areas which are injurious and inimical to the public health, safety, and welfare of the people, it is necessary for this act to take effect immediately.

CHAPTER 603

An act to amend Section 22206 of the Education Code, relating to the State Teachers' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 22206 of the Education Code is amended to read:

22206. The board may authorize the transfer and disbursement of funds from the retirement fund for the purpose of carrying into effect this part upon the signature of either or both its chairperson and vice chairperson or the chief executive officer or any employee of the system designated by the chief executive officer.

Notwithstanding the provisions of Section 13340 of the Government Code, the board may disburse funds for the payment of benefits to retirants, disabilitants, and beneficiaries, for the payment of refunds and for investment transactions and these funds shall not be required to be appropriated through the Budget Act. Funds for the payment of administrative expenses are not continuously appropriated, and shall be appropriated by the Budget Act.

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 for the State Teachers' Retirement System to continue to make regular, timely payment of benefits, to make refunds, and to invest or reinvest the system's funds without interrruption, it is necessary for this act to take effect immediately.

CHAPTER 604

An act to amend Section 1504 of the Elections Code, relating to elections.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 1504 of the Elections Code is amended to read:

1504. (a) The governing body having jurisdiction over school buildings or other public buildings may authorize the use of its buildings for polling places on any election day, and may also authorize the use of its buildings, without cost, for the storage of voting machines and other vote-tabulating devices. However, if a city or county clerk specifically requests the use of a school building for polling places on an election day, the governing body having jurisdiction over the particular school building shall allow its use for the purpose requested.

(b) Once a governing body has approved the use of a school building as a polling place, the governing body shall instruct the school administrator to provide the clerk a site with an adequate amount of space which will allow the precinct board to perform its duties in a manner which will not impede, interfere, or interrupt the normal process of voting.

(c) The school administrator shall also make a reasonable effort to insure that the site is accessible to the handicapped.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 605

An act to add Section 6018.6 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 6018.6 is added to the Revenue and Taxation Code, to read:

6018.6. A person who operates a state-licensed clothes cleaning or clothes dyeing establishment and who receives no more than 20 percent of his or her gross receipts from the alteration of garments during the preceding calendar year is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, property used or furnished by that person in altering new

or used clothing. Sales tax shall not apply to the charges for those alterations. However, that person is a retailer of any other tangible personal property sold to consumers in the regular course of business and sales tax shall apply to the gross receipts from those sales.

SEC. 2. 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. 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.

CHAPTER 606

An act to amend Sections 54775 and 56039 of, and to add Sections 53318.5, 53345.3, and 53356.1 to, the Government Code, relating to community facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1983. Filed with Secretary of State August 31, 1983.]

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

SECTION 1. Section 53318.5 is added to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, as added by Chapter 1451 of the Statutes of 1982, to read:

53318.5. Notwithstanding paragraph (2) of subdivision (a) of Section 54790, a local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to create a community facilities district or a proposal to annex territory to, or detach territory from, such district, pursuant to this chapter.

SEC. 2. Section 53345.3 is added to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, as added by Chapter 1451 of the Statutes of 1982, to read:

53345.3. The amount of the proposed bonded indebtedness may include all costs and estimated costs incidental to, or connected with, the accomplishment of the purpose for which the proposed debt is to be incurred, including, but not limited to, the estimated costs of construction or acquisition of buildings, or both; acquisition of land, rights-of-way, water, sewer, or other capacity or connection fees; lease payments for school facilities that are relocated, satisfaction of contractual obligations relating to expenses or the advancement of funds for expenses existing at the time the bonds are issued pursuant

to this chapter; architectural, engineering, inspection, legal, fiscal, and financial consultant fees; bond and other reserve funds; discount fees; interest on any bonds of the district due and payable prior to the expiration of one year from the date of completion of the facilities, not to exceed two years; election costs; and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, bond assurance premiums, and printing costs.

SEC. 3. Section 53356.1 is added to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, as added by Chapter 1451 of the Statutes of 1982, to read:

53356.1. (a) As a cumulative remedy, if any amount levied pursuant hereto as a special tax for payment bond interest or principal together with any penalties and other charges accruing under the taxation resolution or ordinance of the district are not paid when due, the governing body may, not later than four years after the due date of the last installment of principal, order that the same be collected by an action brought in the superior court to foreclose any lien therefor.

(b) The governing body may by resolution adopted prior to issuance of bonds under this chapter covenant for the benefit of bondholders to commence and diligently pursue to completion any foreclosure action regarding delinquent installments of any amount levied pursuant hereto as a special tax for the payment of interest or principal of any bonds that are issued. The resolution may specify a deadline for commencement of such foreclosure action and such other terms and conditions as the governing body may determine to be reasonable regarding such foreclosure action.

SEC. 4. Section 54775 of the Government Code is amended to read:

54775. Unless the provisions or context otherwise require, the following definitions shall govern the construction of this chapter:

(a) "Affected local agency" means, in the case of an incorporation, an affected county as defined in Section 35022 or an affected district as defined in Section 35023; or in the case of a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, an affected city as defined in Section 56021, an affected county as defined in Section 56022 or an affected district as defined in Section 56023, except that district as used in Section 56023 shall have the same meaning as that term is defined in Section 2215 of the Revenue and Taxation Code.

(b) "City officer" means the mayor or a member of the legislative body of the city.

(c) "Commission" means a local agency formation commission created pursuant to this chapter.

(d) "County officer" means a member of the board of supervisors.

(e) "Function" means any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or

property.

(f) "Independent special district" includes any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of such officers other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the provisions of the District Reorganization Act pursuant to the provisions of Section 56039.

(g) "Independent special district officer" means the presiding officer or a member of the legislative body of an independent special district.

(h) "Initiate" or "initiation" means, in the case of proceedings, the first procedural step authorized or required by any law for the commencement of such proceedings, such step being one of the following:

(1) The circulation of a petition requesting any proceedings.

(2) The filing with any officer of a county or a local agency of a notice of intention to circulate such a petition.

(3) The adoption by a legislative body of a county or a local agency of any resolution, order, or ordinance initiating proceedings on its own motion.

(i) "Local agency" means a city or a special district.

(j) "Principal county," in the case of a special district whose territory is or will be located in two or more counties, shall have the meaning contained in any definition of "principal county," as set forth in the law pursuant to which said special district was or is proposed to be formed. If the law pursuant to which the special district was, or is proposed to be, formed contains no such definition, for purposes of this chapter, "principal county" means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the counties, of the taxable property in, or proposed to be included in, the special district.

(k) "Proceedings" means the procedure authorized and required by any law for the incorporation of a new city, the formation of a special district, the annexation of territory to a local agency or the exclusion of territory from a city, or the disincorporation of a city.

(*l*) "Proponent" means any person intending to circulate or cause the circulation of any petition.

(m) "Service" means a class established within and as a part of a single function, as provided by rules and regulations adopted by the commission pursuant to Article 4 (commencing with Section 54850).

(n) "Special district" means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" does not include the state, a city, a county, or a school district. "Special district" does include a

county service area but does not include a special assessment district formed under the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Street Opening Act of 1903, the Vehicle Parking District Law of 1943, the Parking District Law of 1951, the Pedestrian Mall Law of 1960, or any similar assessment law, or any similar procedural ordinance adopted by a chartered city. "Special district" does not include an improvement district or zone formed for the sole purpose of designating an area which is to bear a special tax or assessment for an improvement benefiting that area, including, but not limited to, community facilities districts formed pursuant to either of the Mello-Roos Community Facilities Acts of 1982, (Chapter 2.5 (commencing with Section 53311)), as added by Chapter 1439 or Chapter 1451 of the Statutes of 1982.

(o) "Open space" means any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in Section 65560.

(p) "Open-space use" means any use as defined in Section 65560.

(q) "Prime agricultural land" means land which qualifies for rating as class I or class II in the United States Soil Conservation Service land-use capability classifications or land which qualifies for rating 80 through 100 in the Storie Index Rating.

(r) "Agricultural preserve" means an area as defined in subdivision (d) of Section 51201.

SEC. 5. Section 56039 of the Government Code is amended to read:

56039. "District" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" shall include a county service area, but shall exclude all of the following:

(a) The state.

(b) A county.

(c) A city, except for the provisions of this division relating to a merger, the establishment of a subsidiary district, or a reorganization which includes an annexation to, a detachment from, or disincorporation of, a city when the affected city does not object to such annexation, detachment, or disincorporation, or the incorporation of a new city when the board of supervisors does not object to such incorporation.

(d) A school district.

(e) A unified or union high school library district.

(f) A special assessment district.

(g) An improvement district.

(h) A community facilities district formed pursuant to either of the Mello-Roos Community Facilities Acts of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5, as added by Chapter 1439 or Chapter 1451 of the Statutes of 1982.

(i) An air pollution control district.

(j) A bridge and highway district or a joint highway district.

(k) A transit or rapid transit district or authority.

(*l*) A metropolitan water district.

(m) A flood control district, a flood control and floodwater conservation district, a flood control and water conservation district, a conservation district, a water conservation district, a water replenishment district, the Orange County Water District, a California water storage district, a water agency, a county water authority or a water authority, if the commission of the principal county shall determine, in accordance with Sections 56015 and 56016 inclusive, that any district, agency, or authority enumerated in this subdivision is not a "district" within the meaning of this division.

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:

In order to expedite the creation of community facilities districts and to broaden the purposes for which bonded indebtedness may be incurred by those districts as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 607

An act to amend Section 24045 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 24045 of the Business and Professions Code is amended to read:

24045. All retailer's on-sale licenses, except on-sale general licenses for seasonal businesses and daily on-sale general licenses issued pursuant to Section 24045.1, shall be issued on a calendar-year basis, except that the department may issue and renew on-sale beer licenses and on-sale beer and wine licenses on a quarterly basis for the remainder of the calendar year where the privilege of such licenses is exercised only a portion of each year; provided, however, that the department may issue special licenses for the sale of beer or wine on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion at a fee equal to the actual cost of issuing the license but not to exceed twenty-five dollars ($25) per day. All other licenses shall be issued on the basis of a fiscal year, commencing July 1st and ending June 30th.

CHAPTER 608

An act to amend Section 42402 of, and to add Section 42316 to, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 42316 is added to the Health and Safety Code, to read:

42316. (a) The Great Basin Air Pollution Control District may require the City of Los Angeles to undertake reasonable measures, including studies, to mitigate the air quality impacts of its activities in the production, diversion, storage, or conveyance of water and may require the city to pay, on an annual basis, reasonable fees, based on an estimate of the actual costs to the district of its activities associated with the development of the mitigation measures and related air quality analysis with respect to those activities of the city. The mitigation measures shall not affect the right of the city to produce, divert, store, or convey water and, except for studies and monitoring activities, the mitigation measures may only be required or amended on the basis of substantial evidence establishing that water production, diversion, storage, or conveyance by the city causes or contributes to violations of state or federal ambient air quality standards.

(b) The city may appeal any measures or fees imposed by the district to the state board within 30 days of the adoption of the measures or fees. The state board, on at least 30 days' notice, shall conduct an independent hearing on the validity of the measures or reasonableness of the fees which are the subject of the appeal. The decision of the state board shall be in writing and shall be served on both the district and the city. Pending a decision by the state board, the city shall not be required to comply with any measures which have been appealed. Either the district or the city may bring a judicial action to challenge a decision by the state board under this section. The action shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure and shall be filed within 30 days of service of the decision of the state board.

(c) A violation of any measure imposed by the district pursuant to this section is a violation of an order of the district within the meaning of Sections 41513 and 42402.

(d) The district shall have no authority with respect to the water production, diversion, storage, and conveyance activities of the city except as provided in this section. Nothing in this section exempts a geothermal electric generating plant from permit or other district requirements.

SEC. 2. Section 42402 of the Health and Safety Code is amended to read:

42402. (a) Any person who violates Section 41700 or 41701, or any order issued pursuant to Section 42316, or any rule or regulation of a district or of the state board issued pursuant to this part, is liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day in which the violation occurs. Any action brought under this section for recovery of a civil penalty precludes prosecution under Section 42400 for the same offense.

(b) There is no liability under subdivision (a), if the person accused of the violation alleges by affirmative defense and establishes that the violation is caused by an act which was not the result of intentional or negligent conduct.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated 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 the necessity are:

In order to provide for the development of resources that will benefit the people of the state consistent with protection of the environment, it is necessary that this act take effect immediately.

CHAPTER 609

An act to amend Sections 53317 and 53325.3 of the Government Code, relating to community facilities.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 53317 of the Government Code, as added by Chapter 1439 of the Statutes of 1982, is amended to read:

53317. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Clerk" means the clerk of the legislative body of a local agency.

(b) "Community facilities district" means the district of land in which public facilities and authorized services are to be provided, and in which special taxes and charges may be levied pursuant to this chapter to pay for these facilities and services.

(c) "Debt" means any binding obligation to repay a sum of

money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private business, or individuals.

(d) "Landowner" or "owner of land" means: (1) any person shown as the owner of land on the last equalized assessment roll; (2) if that person is no longer the owner, then any person entitled to be shown as the owner of land on the next assessment roll; (3) if land is subject to a recorded written agreement of sale, any person shown therein as purchaser; and (4) any public agency owning land.

(e) "Legislative body" means the legislative body or governing board of any local agency.

(f) "Local agency" means any city or county, whether general law or chartered, special district, or any other municipal corporation or district.

(g) "Services" means the provision of police and fire protection services, recreation programs, and the operation and maintenance of parks and parkways. "Services" includes the performance by employees of functions, operations, maintenance, and repair activities.

SEC. 2. Section 53317 of the Government Code, as added by Chapter 1451 of the Statutes of 1982, is amended to read:

53317. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Clerk" means the clerk of the legislative body of a local agency.

(b) "Community facilities district" means the district of land in which public facilities and authorized services are to be provided, and in which special taxes and charges may be levied pursuant to this chapter to pay for those facilities and services.

(c) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) "Landowner" or "owner of land" means: (1) any person shown as the owner of land on the last equalized assessment roll; (2) if such person is no longer the owner, then any person entitled to be shown as the owner of land on the next assessment roll; (3) if land is subject to a recorded written agreement of sale, any person shown therein as purchaser; and (4) any public agency owning land.

(e) "Legislative body" means the legislative body or governing board of any local agency.

(f) "Local agency" means any city or county, whether general law or chartered, special district, school district, or any other municipal corporation or district.

(g) "Services" means the provision of police and fire protection services, recreation programs, and the operation and maintenance of parks and parkways. "Services" includes the performance by

employees of functions, operations, maintenance, and repair activities.

SEC. 3. Section 53325.3 of the Government Code, as added by Chapter 1439 of the Statutes of 1982, is amended to read:

53325.3. The legislative body shall then submit the levy of any special tax to the qualified electors of the proposed community facilities district in the next General Election or in a special election to be held at least 90 days, but not more than 180 days, following the close of the protest hearing, whichever election date occurs first. If 12 or more registered voters reside within the territory of the proposed community facilities district at the time of the close of the protest hearing, and for at least the preceding 90 days, the vote shall be by the registered voters of the proposed district, with each voter having one vote. If fewer than 12 registered voters reside within the proposed community facilities district at the time of the close of the protest hearing and for at least the preceding 90 days, the vote shall be by the landowners of the proposed district, each landowner having one vote for each acre or portion thereof of land that he or she owns within the proposed community facilities district. Ballots for a special election for this purpose may be distributed to qualified electors by mail with return postage prepaid.

SEC. 4. Section 53325.3 of the Government Code, as added by Chapter 1451 of the Statutes of 1982, is amended to read:

53325.3. The legislative body shall then submit the levy of any special taxes to the qualified electors of the proposed community facilities district in the next general election or in a special election to be held at least 90 days, but not more than 180 days, following the close of the protest hearing, whichever election date occurs first. If 12 or more registered voters reside within the territory of the proposed community facilities district at the time of the close of the protest hearing, and for at least the preceding 90 days, the vote shall be by the registered voters of the proposed district, with each voter having one vote. If fewer than 12 registered voters reside within the proposed community facilities district at the time of the close of the protest hearing and for at least the preceding 90 days, the vote shall be by the landowners of the proposed district, each landowner having one vote for each acre or portion thereof of land that he or she owns within the proposed community facilities district. Ballots for a special election for this purpose may be distributed to qualified electors by mail with return postage prepaid.

CHAPTER 610

An act to amend Sections 26.1, 26.7, 26.9, 26.10, and 26.13 of, and to add Sections 25.2 and 25.6 to, the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 25.2 is added to the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), to read:

Sec. 25.2. (a) Notwithstanding any other provision of this act, the district may from time to time, subject to the provisions of this section, issue bonds in accordance with the Revenue Bond Law of 1941, (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) for the purpose of financing the construction, reconstruction, replacement, acquisition or improvement of any facility or facilities necessary or convenient for the storage, treatment, including reclamation, transmission, or distribution of water for beneficial use within the district and for the purpose of generation or transmission of electric power; provided, that this section shall not apply to the acquisition of any facility or facilities already employed in any such public utility use, except where the acquisition of the facility or facilities is by mutual agreement between the district and the owner of the property.

(b) The provisions of Sections 54380 to 54387, inclusive, of the Government Code shall not apply to the issuance and sale of bonds pursuant to this section.

(c) The board shall not proceed under this section until it has submitted to the qualified voters of the district at a special election called by a resolution of the board a proposition as to whether the district may authorize and sell revenue bonds under this section. If a majority of the voters of the district voting on the proposition at the election vote in favor of the proposition, the board may proceed to issue and sell revenue bonds as provided by this section. If the proposition fails to carry at the election, the proposition shall not again be voted upon until at least six months have elapsed since the date of the last election at which the proposition was submitted.

(d) The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted thereat, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. The election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote. The resolution calling the election shall be published and no other notice of the election need be given.

SEC. 2. Section 25.6 is added to the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), to read:

Sec. 25.6. (a) The district may borrow money and incur indebtedness, not to exceed the amount of four million dollars ($4,000,000), as provided in this section by action of the board of

directors and without the necessity of calling and holding an election in the district.

(b) Indebtness may be incurred pursuant to this section for any purpose for which the district is authorized to expend funds.

(c) Indebtedness incurred under this section shall be evidenced by short-term notes payable at stated times fixed by the board. The maturity of short-term notes shall be not later than five years from the date of issuance. Short-term notes shall bear interest at a rate not exceeding 10 percent per annum payable annually or semiannually. Short-term notes shall be general obligations of the district payable from revenues, charges, taxes, and assessments levied for purposes of the district.

(d) Short-term notes shall not be issued pursuant to this section which are payable in any fiscal year in an amount which, when added to the interest thereon, exceeds 85 percent of the estimated amount of the revenues, charges, taxes, and assessments of or allocable to the district which will be available in that fiscal year for payment of short-term notes and the interest thereon.

SEC. 3. Section 26.1 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 26.1. As used in connection with the ground water charge, the following words shall mean:

"Person," "owner," or "operator" means public agencies, federal, state, and local, private corporations, firms, partnerships, individuals or groups of individuals, whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

"Groundwater" means nonsaline water beneath the natural surface of the ground, whether or not flowing through known and definite channels; "nonsaline water" means water which has less than 1,000 parts of chlorides to 1,000,000 parts of water, both quantities measured by weight.

"Production" or "producing" means the extraction or extracting of groundwater, by pumping or any other method, from shafts, tunnels, wells (including, but not limited to, abandoned oil wells), excavations or other sources of such groundwater, for domestic, municipal, irrigation, industrial, or other beneficial use, except that such terms shall not mean or include the extraction of groundwater produced in the construction or reconstruction of a well, or water incidentally produced with oil or gas in the production thereof, or water incidentally produced in a bona fide mining or excavating operation or water incidentally produced in the bona fide construction of a tunnel, unless the groundwater so extracted shall be used or sold by the producer for domestic, municipal, irrigation, industrial, or other beneficial purpose.

"Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the

groundwater supplies within the district or a zone thereof.

"Water production statement" means the certified statement filed by the owner or operator of a water-producing facility with the district of the production of groundwater of the facility in a specified period.

"Water year" means July 1st of one calendar year to June 30th of the following calendar year.

"Agricultural water" means water first used on lands in the production of plant crops or livestock for market.

SEC. 4. Section 26.7 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 26.7. Prior to the end of the water year in which said hearing is held, and based upon the findings and determinations from said hearing, the board shall determine whether or not a groundwater charge should be levied in any zone or zones. If the board determines that a groundwater charge should be levied, it shall levy, assess, and affix such charge or charges against all persons operating groundwater-producing facilities within such zone or zones during the ensuing water year. The charge shall be computed at a fixed and uniform rate per acre-foot for agricultural water, and at a fixed and uniform rate per acre-foot for all water other than agricultural water. Different rates may be established in different zones; provided, however, that in each zone the rate for agricultural water shall be fixed and uniform and the rate for water other than agricultural water shall be fixed and uniform. The rates shall be established each year in accordance with a budget for such year submitted by the district to the Board of Supervisors of Santa Clara County pursuant to this act and shall be fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively; provided, that each such rate for agricultural water shall not exceed one-fourth of such rate for all water other than agricultural water.

Any groundwater charge levied pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof.

Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility where the production of water therefrom is otherwise properly charged, or in the making or extension of any charge upon the records which do not affect the substantial rights of the assessee or assessees, shall not invalidate the groundwater charge.

SEC. 5. Section 26.9 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 26.9. After the establishment of a zone in which a groundwater charge may be levied, each owner or operator of a water-producing facility within said zone, until such time as said water-producing facility has been permanently abandoned, shall file with the district, on or before the thirtieth day following the end of collection periods established by the board, a water production statement setting forth the total production in acre-feet of water for

the preceding collection period, a general description or number locating each water-producing facility, the method or basis of the computation of such water production, and the amount of the groundwater charge based on such computation. The collection periods may be established at not greater than a year or less than six months. If no water has been produced from the water-producing facility during a preceding collection period, this statement shall be filed as provided for herein, setting forth that no water has been produced during said period. Said statement shall be verified by a written declaration that it is made under the penalties of perjury. The groundwater charge is payable to the district on or before the last date upon which the water production statements shall be filed, and is computed by multiplying the production in acre-feet of water for each classification as disclosed in the statement by the groundwater charge for each classification of water. At such time as any said water-producing facility has been permanently abandoned, the operator thereof shall give written notice of such abandonment to the district. If any operator of a water-producing facility shall fail to pay the groundwater charge when due, the district shall charge interest at the rate of 1 percent each month on the delinquent amount of the groundwater charge.

Should any owner or operator of a water-producing facility fail to register each water-producing facility, or fail to file the water production statements as required by this act, the district shall, in addition to charging interest as provided herein, assess a penalty charge against such owner or operator in an amount of 10 percent of the amount found by said district to be due. The board may adopt regulations to provide that in excusable or justifiable circumstances such penalty may be reduced or waived.

When a water-measuring device is pemanently attached to a water-producing facility, the record of production as disclosed by such water-measuring device shall be presumed to be accurate and shall be used as the basis for computing the water production of said water-producing facility in completing the water production statement, unless it can be shown that the water-measuring device is not measuring accurately.

When a water-measuring device is not permanently attached to a water-producing facility, the board may establish a method or methods to be used in computing the amount of water produced from such water-producing facilities.

Such methods may be based upon any, or all, or a combination of some of the following criteria: the minimum charge sufficient to cover administrative costs of collection, size of water-producing facility discharge opening, area served by the water-producing facility, number of persons served by the water-producing facility, use of land served by the water-producing facility, crops grown on land served by the water-producing facility, or any other criteria or criteria which may be used to determine with reasonable accuracy the amount of water produced from such water-producing facility.

The district may levy an annual charge upon a water-producing facility for which no production has been recorded but which has not been permanently abandoned; provided, that this charge shall not exceed the annual cost to the district of maintaining and administering the registration of that facility.

SEC. 6. Section 26.10 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 26.10. Upon good cause shown, an amended statement of water production may be filed or a correction of the records may be made at any time within six months of filing the water production statement; provided that if pursuant to Section 26.13, the owner or operator has been notified of a determination by the district that the production of water from the water-producing facility is in excess of that disclosed by the sworn statement covering such water-producing facility, and such owner or operator fails to protest such determination in the manner and in the time set forth in Section 26.13, the owner or operator shall be precluded from later filing an amended water production statement for that period for such water-producing facility.

SEC. 7. Section 26.13 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 26.13. If the district has probable cause to believe that the production of water from any water-producing facility is in excess of that disclosed by the sworn statements covering such water-producing facility, or if no statements are filed covering any water-producing facility, the district may cause an investigation and report to be made concerning the production of water from each such water-producing facility. The district may fix the amount of water production from any such water-producing facility at an amount not to exceed the maximum production capacity of such water-producing facility; provided, however, where a water-measuring device is permanently attached thereto, the record of production, as disclosed by such water-measuring device, shall be presumed to be accurate.

After such determination has been made by the district, a written notice thereof shall be mailed to the person operating such water-producing facilities at the address shown by the district's records. Any such determination made by the district shall be conclusive on all persons having an interest in such water-producing facility, and the groundwater charge, interest and penalties thereon, shall be paid forthwith, unless such person files with the board within 15 days after the mailing of such notice, a written protest setting forth the ground or grounds for protesting the amount of production so fixed. Upon the filing of such protest, the board thereafter shall hold a hearing at which time the total amount of the water production and the groundwater charge thereon shall be determined, which shall be conclusive if based upon substantial evidence. If the water production statement was filed and the amount disclosed thereon was paid within the time required by this act, and the board finds

that the failure to report the amount of water actually produced resulted from excusable or justifiable circumstances, the board may waive the charge of interest on the amount found to be due. A notice of such hearing shall be mailed to the protestant at least 10 days before the date fixed for the hearing. Notice of the determination by the board shall be mailed to each protestant, who shall have 20 days from the date of mailing to pay the groundwater charge, interest or penalties provided by the provisions of this act.

Notice as required in this section shall be given by deposit thereof in any postal facility regularly maintained by the government of the United States in a sealed envelope with postage paid, addressed to the person on whom it is served at the name and address disclosed by the records of the district. The service is complete at the time of deposit.

CHAPTER 611

An act to amend Sections 1360.1, 1363, 1369, 1375.1, and 1391 of the Health and Safety Code, relating to health care plans.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 1360.1 of the Health and Safety Code is amended to read:

1360.1. It is unlawful for any person, including a plan, subject to this chapter to represent or imply in any manner that the person or plan has been sponsored, recommended, or approved, or that the person's or plan's abilities or qualifications have in any respect been passed upon, by the commissioner. Nothing in this section prohibits a statement (other than in a paid advertisement) that a person or plan holds a license under this chapter, if such statement is true and if the effect of such licensing is not misrepresented.

SEC. 2. Section 1363 of the Health and Safety Code is amended to read:

1363. (a) The commissioner shall require the use by each plan of disclosure forms or materials containing such information regarding the benefits, services, and terms of the plan contract as the commissioner may require, so as to afford the public, subscribers, and enrollees with a full and fair disclosure of the provisions of the plan in readily understood language and in a clearly organized manner. The commissioner may require that the materials be presented in a reasonably uniform manner so as to facilitate comparisons between plan contracts of the same or other types of plans. Nothing contained in this chapter shall preclude the commissioner from permitting such disclosure form to be included with the evidence of coverage or plan

contract.

The disclosure form shall provide for at least the following information, in concise and specific terms, relative to the plan, together with such additional information as may be required by the commissioner, in connection with the plan or plan contract:

(1) The principal benefits and coverage of the plan.

(2) The exceptions, reductions, and limitations that apply to the plan.

(3) The full premium cost of the plan.

(4) Any copayment, coinsurance, or deductible requirements that may be incurred by the member or the member's family in obtaining coverage under the plan.

(5) The terms under which the plan may be renewed by the plan member, including any reservation by the plan of any right to change premiums.

(6) A statement that the disclosure form is a summary only, and that the plan contract itself should be consulted to determine governing contractual provisions.

(7) A statement as to when benefits shall cease in the event of nonpayment of the prepaid or periodic charge and the effect of nonpayment upon an enrollee who is hospitalized or undergoing treatment for an ongoing condition.

(8) To the extent that the plan permits a free choice of provider to its subscribers and enrollees, the statement shall disclose the nature and extent of choice permitted and the financial liability which is, or may be, incurred by the subscriber, enrollee, or a third party by reason of the exercise of such choice.

(9) A summary of the provisions required by subdivision (g) of Section 1373, if applicable.

(10) If the plan utilizes arbitration to settle disputes, a statement of that fact.

(b) All plans, solicitors, and representatives of a plan shall, when presenting any plan contract for examination or sale to an individual prospective plan member, provide the individual with a properly completed disclosure form, as prescribed by the commissioner pursuant to this section for each plan so examined or sold.

(c) In the case of group contracts, the completed disclosure form and evidence of coverage shall be presented to the contract holder upon delivery of the completed health care service plan agreement.

(d) Group contract holders shall disseminate copies of the completed disclosure form to all persons eligible to be a subscriber under the group contract at the time such persons are offered the plan. Where the individual group members are offered a choice of plans, separate disclosure forms shall be supplied for each plan available. Each group contract holder shall also disseminate or cause to be disseminated copies of the evidence of coverage to all subscribers enrolled under the group contract.

(e) In the case of conflicts between the group contract and the evidence of coverage, the provisions of the evidence of coverage

shall be binding upon the plan notwithstanding any provisions in the group contract which may be less favorable to subscribers or enrollees.

SEC. 3. Section 1369 of the Health and Safety Code is amended to read:

1369. Every plan shall establish procedures to permit subscribers and enrollees to participate in establishing the public policy of the plan. For purposes of this section, public policy means acts performed by a plan or its employees and staff to assure the comfort, dignity, and convenience of patients who rely on the plan's facilities to provide health care services to them, their families, and the public.

Compliance with the requirements of the Health Maintenance Organization Act of 1973 (42 U.S.C. § 300e et seq.) shall be deemed sufficient compliance with this section.

SEC. 4. Section 1375.1 of the Health and Safety Code is amended to read:

1375.1. (a) Every plan shall have and shall demonstrate to the commissioner that it has both of the following:

(1) A fiscally sound operation and adequate provision against the risk of insolvency.

(2) Assumed full financial risk on a prospective basis for the provision of covered health care services, except that a plan may obtain insurance or make other arrangements for the cost of providing to any subscriber or enrollee covered health care services, the aggregate value of which exceeds five thousand dollars ($5,000) in any year, for the cost of covered health care services provided to its members other than through the plan because medical necessity required their provision before they could be secured through the plan, and for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year.

(b) In determining whether the conditions of this section have been met, the commissioner shall consider, but not be limited to, the following:

(1) The financial soundness of the plan's arrangements for health care services and the schedule of rates and charges used by the plan.

(2) The adequacy of working capital.

(3) Agreements with providers for the provision of health care services.

(c) For the purposes of this section, "covered health care services" means health care services provided under all plan contracts.

SEC. 5. Section 1391 of the Health and Safety Code is amended to read:

1391. (a) The commissioner may issue an order directing a plan, solicitor firm, or any representative thereof, or solicitor to cease and desist from engaging in any act or practice in violation of the provisions of this chapter.

Within 15 days after service of the order of cease and desist, the

respondent may request a hearing on the question of whether acts or practices in violation of this chapter have occurred.

(b) If a timely request for a hearing is made by a licensed plan, the request shall automatically stay the effect of the order only to the extent that the order requires the cessation of operation of the plan or prohibits acceptance of new members by the plan or both. However, no automatic stay shall be issued if any examination or inspection of the plan performed by the commissioner discloses, or reports or documents submitted to the commissioner by the plan on their face show, that the plan is in violation of any fiscal requirement of this chapter or in violation of any requirement of Section 1384 or 1385. In the event of an automatic stay, only that portion of the order requiring cessation of operation or prohibiting enrollment shall be stayed and all other portions of the order shall remain effective. If a hearing is held, and a finding is made that the health or safety of the members and potential members of the plan might be adversely affected by its continued operation, the stay shall be terminated. Such a finding shall be made, if at all, not later than 30 days after the date of the hearing.

(c) If a timely request for a hearing is made by an unlicensed plan, the commissioner may stay the effect of the order to the extent that the order requires the cessation of operation of the plan or prohibits acceptance of new members by the plan, for such period and subject to such conditions as the commissioner may require, upon a determination by the commissioner that the action would be in the public interest.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 612

An act to amend Section 10204 of the Streets and Highways Code, and to add Chapter 7 (commencing with Section 74650) to Part 5 of Division 21 of the Water Code, and to amend Section 33 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to water.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 10204 of the Streets and Highways Code is amended to read:

10204. The report of the person or board to whom the improvement is referred by the legislative body shall contain:

(a) Plans and specifications of the proposed improvement if the improvement is not already installed.

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the works, appliances, or property are to be acquired as part of the improvement.

(c) An estimate of the cost of the improvement and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the improvement. If the legislative body in the resolution of intention ordered that private utility damages be included in the assessment, the report shall contain an estimate of private utility damages.

(d) A diagram showing the assessment district and the boundaries and dimensions of the subdivisions of land within the district as they existed at the time of the passage of the resolution of intention. Each subdivision, including each separate condominium interest as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram.

(e) A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in the district in proportion to the estimated benefits to be received by such subdivisions, respectively, from the improvement. In the case of an assessment for installation of flood control facilities, the assessment levied against each parcel of subdivided land may be levied on the basis of the proportionate storm water runoff from each parcel. When any portion or percentage of the cost and expenses of the improvement is ordered to be paid out of the treasury of the municipality, pursuant to Section 10201, the amount of such portion or percentage shall first be deducted from the total estimated cost and expenses of the improvement, and the assessment upon property proposed in the report shall include only the remainder of the estimated cost and expenses. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (d) of this section.

SEC. 2. Chapter 7 (commencing with Section 74650) is added to Part 5 of Division 21 of the Water Code, to read:

CHAPTER 7. ADOPTION OF ORDINANCES

74650. (a) A district may act by ordinance in exercising its powers under this division over lands, structures, and facilities in which the district has a real property interest. All ordinances shall be

enacted only by rollcall vote entered into the proceedings of the board.

(b) It is the policy of the Legislature to avoid duplication of authority of local districts to regulate upon the same subjects in the same area. Accordingly, this chapter shall not apply to a district lying within another district having and exercising, in accordance with the governing statute of the overlying district, the authority to adopt and enforce, upon civil or penal sanction, ordinances for the same purposes.

74651. An ordinance shall be in full force and effect upon adoption, but shall be published once in full in a newspaper of general circulation, printed, published, and circulated in the district within 10 days after adoption, or if there be no such newspaper, then posted within that time in three public places within the district.

74652. It is a misdemeanor for any person to violate any district ordinance adopted pursuant to Section 74650 from and after the publication or posting of the ordinance pursuant to Section 74651. The violation shall be punishable by a fine not to exceed five hundred dollars ($500), or imprisonment in the county jail not to exceed 30 days, or by both that fine and imprisonment. Any violation or threatened violation may also be enjoined by civil action.

SEC. 3. Section 33 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 33. Each person elected or appointed to the office of director shall, within 10 days after receiving his certificate of election, or notice of appointment, qualify as such by taking and subscribing to an official oath and executing and filing an official bond in the sum of one thousand dollars ($1,000) which shall be approved by the judge of the Superior Court of Santa Clara County and shall be recorded in the offices of the county recorder of the county. The director shall file the official bond, together with his official oath, with the clerk of the board.

The board may authorize each director to receive compensation not exceeding one hundred dollars ($100) per day for each day's attendance at meetings of the board, or committees thereof, or for each day's service rendered as a director by request of the board. No director may receive total compensation, other than for actual and necessary expenses, in excess of six hundred dollars ($600) per month.

Employees appointed by the board under this act, when required by the board of the district, shall execute bonds conditioned, executed, approved, filed, and recorded in the general manner and form provided by law for officers, other than supervisors, of the county, before entering upon the duties of their respective employments.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a

local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 613

An act to add Section 12080 to the Penal Code, relating to firearms, and making an appropriation therefor.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 12080 is added to the Penal Code, to read:

12080. The Department of Justice shall prepare a pamphlet which summarizes California firearms laws as they pertain to persons other than law enforcement officers or members of the armed services. The summary may include such matters as lawful possession, licensing procedures, transportation and use of firearms, acquisition of hunting licenses and the availability of safety training programs. The department shall offer copies of the summary through the Department of General Services at actual cost to retail firearms dealers who shall have copies of the most current version available for sale to retail purchasers of firearms. Other interested parties may purchase copies directly from the Department of General Services. The pamphlet shall declare that it is merely intended to provide a general summary of laws applicable to firearms and is not designed to provide individual guidance for specific areas. Individuals having specific questions shall be directed to contact their local law enforcement agency or private counsel. The Department of Justice or any other public entity shall be immune from any liability arising from the drafting, publication or dissemination of the pamphlet or any reliance upon it. All receipts from the sale of these pamphlets shall be deposited as reimbursements to the support appropriation for the Department of Justice.

CHAPTER 614

An act relating to the disposition of real property owned by the state.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board, is hereby directed to sell or exchange for current market value and upon those terms and conditions and with the reservations and exceptions which in his or her opinion may be in the best interest of the state, all or any part of approximately 1.80 acres of land being a portion of South Carlsbad State Beach, located off Highway 101 in the County of San Diego.

SEC. 2. Any cost or expense incurred in the disposition of any parcel may be reimbursed from the proceeds of the disposition.

SEC. 3. Subject to the provisions of Section 2, any moneys received from the disposition of any parcel shall be paid into the General Fund.

SEC. 4. 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.

CHAPTER 615

An act to add and repeal Section 2421 of the Vehicle Code, relating to the Department of the California Highway Patrol, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 2421 is added to the Vehicle Code, to read:

2421. (a) The department may contract to provide supplemental law enforcement services on any highways under its jurisdiction with any person, as defined by Section 470, who is engaged in activities that will result in the need for supplemental law enforcement services. The department may, pursuant to such a contract, provide supplemental law enforcement services in areas other than a highway under its jurisdiction when the provision of these services is incidental to performance of the contract. A contract entered into pursuant to this section shall provide for reimbursement to the department of the full costs of providing the supplemental services. As used in this section, "full costs" includes the costs of payroll and other additional benefits, the costs of any equipment used, and the costs of administration incurred as a result of the contract.

(b) The law enforcement services, if any, provided under this section shall be rendered by officers of the department, as described in Section 2250.

(c) Contracts for supplemental law enforcement services authorized under this section shall not reduce the normal and regular services the department provides.

(d) The contract fees received pursuant to the contract shall be deposited in the Motor Vehicle Account in the State Transportation Fund and are hereby continuously appropriated to the department to provide services under the contract.

(e) The commissioner shall submit a report to the Department of Finance and the Legislature as to the amount of those contract fees deposited in the Motor Vehicle Account in the State Transportation Fund during the fiscal year, and the supplemental law enforcement services provided by the department.

(f) This section shall remain in effect only until June 30, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1986, deletes or extends that 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 the necessity are:

In order for the Department of the California Highway Patrol to have adequate time to plan and contract to provide supplemental law enforcement services without delay, it is necessary that this act take effect immediately.

CHAPTER 616

An act to amend Sections 48645, 48645.1, and 48645.5 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 48645 of the Education Code is amended to read:

48645. The purpose of this article is to provide for the administration and operation of public schools in juvenile halls, juvenile homes, day centers, juvenile ranches, or juvenile camps established pursuant to Article 14 (commencing with Section 850) and Article 15 (commencing with Section 880) of Chapter 2 of Division 2 of the Welfare and Institutions Code or in any group home housing 25 or more children placed pursuant to Sections 362, 727, and 730, of the Welfare and Institutions Code or in any group home

housing 25 or more children and operating one or more additional sites under a central administration for children placed pursuant to Section 362, 727, or 730 of the Welfare and Institutions Code, with acceptable school structures at one or more centrally located sites to serve the single or composite populations, and to provide the juvenile court school pupils therein detained with quality education and training.

Nothing in this section shall be construed as indicating that it is the intent of the Legislature to prevent juvenile court school pupils who are housed in group homes from enrolling in regular public schools, or that it is the intent of the Legislature to transfer the responsibility for any costs associated with the operation of group homes to the counties.

SEC. 2. Section 48645.1 of the Education Code is amended to read:

48645.1. Public schools or classes in any juvenile hall, juvenile home, day center, juvenile ranch, or juvenile camp established in accordance with Article 14 (commencing with Section 850) and Article 15 (commencing with Section 880) of Chapter 2 of Division 2 of the Welfare and Institutions Code or in any group home housing 25 or more children and operating one or more additional sites under a central administration, with acceptable school structures at one or more centrally located sites to serve the single or composite populations of juvenile court school pupils detained therein in accordance with the provisions of Sections 362, 727, or 730 of the Welfare and Institutions Code, shall be known as juvenile court schools.

SEC. 3. Section 48645.5 of the Education Code is amended to read:

48645.5. Each public school district shall accept for credit any coursework satisfactorily completed by a student while in a juvenile court school or in any county or state-operated institution for dependent or delinquent children. Such coursework shall be transferred by means of the standard state transcript. If a student completes the graduation requirements of his or her school district of residence while being detained, the school district of residence shall issue to the student a diploma from the school he or she last attended before detention or in the alternative, the county superintendent of schools may issue the diploma.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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. 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 continue the juvenile court school program without interruptions due to mid-school-year adjustments, it is necessary that this act take effect immediately.

CHAPTER 617

An act to amend Sections 6912 and 6922 of the Public Resources Code, relating to state lands.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 6912 of the Public Resources Code is amended to read:

6912. (a) In case of an application for a permit or lease covering lands which have been sold by the state, subject to a reservation by the state of the geothermal resources thereof, by any person other than the owner of the surface of those lands, the owner may, within four months from the date of service of notice of the application, file an application for a permit or lease. The notice, with a copy of the application, shall be served by the commission, by registered mail. If the owner files an application and is a qualified person and the commission determines that the permitting or leasing of the lands is in the best interest of the state, the owner's application shall be granted subject to all the provisions of this article. If the owner fails to exercise the rights granted by this section, those rights shall terminate and the applicant shall be permitted to proceed with the application.

(b) In the event of a competitive lease sale, after the commission has determined the highest competitive bid thereon, the owner of the surface of those lands may within 30 days after notification by the commission, by registered mail, submit a bid identical to the highest acceptable bid, in which case the commission shall issue a lease to the owner. If the owner fails to file a bid within that time, the commission may proceed with the award of the bid to other than the owner.

SEC. 2. Section 6922 of the Public Resources Code is amended to read:

6922. No prospecting permit or lease shall be made for less than 640 acres nor more than 5,760 acres and the permit or lease shall embrace a reasonably compact area. A prospecting permit or lease may be issued for a parcel less than 640 acres if the parcel is isolated from or not contiguous with other parcels of land available for a prospecting permit or lease hereunder or if the parcel would otherwise be subject to leasing rights as provided in subdivision (b) of Section 6912 by more than one surface owner. No person, association, or corporation shall take, hold, own, or control at one

time, whether acquired directly from the commission under this article or otherwise, any direct or indirect interests in state geothermal leases or prospecting permits exceeding 25,600 acres. In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease or prospecting permit shall be the party's proportionate part of the total lease or prospecting permit acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage, except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than 10 percent of the stock or other instruments of ownership or control of the association or corporation. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease or prospecting permit will be charged with a similar percentage of the total acreage. No limitation shall apply to the number of prospecting permits or leases granted under this article. In the unitizing of acreage by two or more lessees pursuant to a cooperative or unit plan of development or operation approved by the commission, accountable acreage of a party owning an interest shall be his pro rata share and any lease or portion so committed shall continue in force so long as committed to the plan beyond the expiration date of its primary term. Any lease eliminated from any approved cooperative plan of development shall continue in effect for the original term of the lease or for two years after its elimination from the plan or the termination thereof, whichever is longer, and so long thereafter as geothermal resources are being produced or utilized in commercial quantities. A purchaser of geothermal resources pursuant to a sales contract approved by the commission shall not be deemed to have a direct or indirect interest in geothermal leases or prospecting permits.

CHAPTER 618

An act to add Sections 19589 and 19619.5 to the Government Code, relating to state employees.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 19589 is added to the Government Code, to read:

19589. Letters of reprimand shall be removed from the personnel file of the state employee and destroyed not later than three years from the date the letters were issued.

SEC. 2. Section 19619.5 is added to the Government Code, to read:

19619.5. Notwithstanding Section 19619, budget savings derived from productivity increases identified pursuant to this chapter for work funded from funds which are restricted by the California Constitution or federal law as to their authorized uses shall be distributed as follows:

(1) Seventy percent shall be retained in, or returned to, the fund or funds from which the state agency's appropriation is drawn.

(2) The balance shall be distributed in the manner described in paragraphs (2) and (3) of subdivision (b) of Section 19619.

CHAPTER 619

An act to amend Section 42001 of, and to add Section 42001.3 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in this section and Sections 42001.3, 42001.5, 42001.7, and 42001.9, every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) and for a third or any subsequent conviction within a period of one year by a fine of not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Sections 2800, 2801, and 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, and Section 2800.1, shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) or by imprisonment in the county jail for not exceeding five days and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) or by imprisonment in the county jail for not exceeding 10 days, or by both such fine and imprisonment and for a third or any subsequent conviction within a period of one year by a fine of not exceeding five hundred dollars ($500) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment.

(c) Notwithstanding the provisions of subdivision (a), every pedestrian convicted of an infraction for a violation of this code or

of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(d) Subdivision (a) shall have no application to any violation punishable pursuant to Section 42001.7, any violation by a pedestrian, or Article 2 (commencing with Section 42030) of Chapter 1 of this division relating to weight violations.

SEC. 2. Section 42001.3 is added to the Vehicle Code, to read:

42001.3. Violations of Section 34506.3, with respect to any regulation adopted under Section 34501 relative to the maintenance of driving logs, shall be punishable by a fine of five hundred dollars ($500).

CHAPTER 620

An act to amend Section 7.1 of the Kern County Water Agency Act (Chapter 1003 of the Statutes of 1961), relating to the Kern County Water Agency.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983]

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

SECTION 1. Section 7.1 of the Kern County Water Agency Act (Chapter 1003 of the Statutes of 1961) is amended to read as follows:

SEC. 7.1. The governing body of the agency shall be a board of seven directors, with one director being a voter of and nominated and elected from each of seven divisions established by ordinance of the agency. Following each decennial federal census, and using the census as a basis, the board shall adjust the boundaries of any or all of the divisions of the agency so that the divisions shall be as nearly equal in population as may be. In establishing the boundaries of the divisions, the board may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interest of the divisions. The boundaries of the divisions shall be adjusted by the board before the first day of November of the year following the year in which each decennial federal census is taken. At any time between the decennial adjustments of district boundaries, the board may adjust the boundaries of the divisions on the basis of a census taken pursuant to Section 26203 of the Government Code, or on the basis of population estimates prepared by the State Department of Finance or the Kern County Planning Department or the Kern County Planning Commission.

The term of office of any director who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the division from which he was elected. At the first election following adjustment of the boundaries of any divisions, a

director shall be elected for each division under the readjusted division plan that has the same division number as a division whose incumbent's term is due to expire. A change in the boundaries of a division shall not be made within 90 days prior to the final date of voter registration for an election of directors or between the direct primary election and the general election.

Each director shall be elected at the agency election and serve a term of four years. The elections of directors shall be held at the time of the general election and shall be consolidated therewith. Candidates shall declare their candidacy not less than 88 days and not more than 113 days before the general election. Each candidate for director who receives the highest number of votes within his division at the agency election shall be elected, and shall take office at the same time provided by the Government Code for county officers.

All vacancies occurring in the office of director, including the failure of a person elected to qualify, shall be filled by appointment by the remaining directors of a person who is eligible to be elected for the vacancy.

CHAPTER 621

An act to amend Section 6254 of the Government Code, relating to public records.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the

regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1).

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; provided, however, that nothing herein shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical

description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds; and

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent such information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property or weapons involved.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on such borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such

licensing agency to establish his personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees. Contracts for inpatient services entered into pursuant to these articles, on or after January 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to January 1, 1984, is amended on or after January 1, 1984, the amendment shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Nothing in this section is to be construed as preventing any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

CHAPTER 622

An act to amend Section 739.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 739.5 of the Public Utilities Code is amended to read:

739.5. (a) The commission shall require that, whenever gas or electric service, or both, is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer shall charge each user of the service at the same rate which would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation. The commission shall require the corporation furnishing service to the master-meter customer to establish uniform rates for master-meter service at a level which will provide a sufficient differential to cover the reasonable average costs to master-meter customers of providing submeter service, except that these costs shall not exceed the average cost that the corporation would have incurred in providing comparable services directly to the users of the service.

(b) Every master-meter customer of a gas or electrical corporation subject to subdivision (a) who, on or after January 1, 1978, receives any rebate from the corporation shall distribute to, or credit to the account of, each current user served by the master-meter customer that portion of the rebate which the amount of gas or electricity, or both, consumed by the user during the last billing period bears to the total amount furnished by the corporation to the master-meter customer during that period.

(c) An electrical or gas corporation furnishing service to a master-meter customer shall furnish to each user of the service within a submetered system every public safety customer service which it provides beyond the meter to its other residential customers. The corporation shall furnish a list of those services to the master-meter customer who shall post the list in a conspicuous place accessible to all users. Every corporation shall provide these public

safety customer services to each user of electrical or gas service under a submetered system without additional charge unless the corporation has included the average cost of these services in the rate differential provided to the master-meter customer on January 1, 1984, in which case the commission shall deduct the average cost of providing these public safety customer services when approving rate differentials for master-meter customers.

(d) Every master-meter customer is responsible for maintenance and repair of its submeter facilities beyond the master meter, and nothing in this section requires an electrical or gas corporation to make repairs to or perform maintenance on the submeter system.

(e) Every master-meter customer shall provide an itemized billing of charges for electricity or gas, or both, to each individual user generally in accordance with the form and content of bills of the corporation to its residential customers, including, but not limited to, the opening and closing readings for the meter, and the identification of all rates and quantities attributable to each block in the applicable rate structure. The master-meter customer shall also post, in a conspicuous place, the applicable prevailing residential gas or electrical rate schedule, as published by the corporation.

(f) The commission shall require that every electrical and gas corporation shall notify each master-meter customer of its responsibilities to its users under this section.

CHAPTER 623

An act to amend Section 2454 of the Vehicle Code, relating to highways.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 2454 of the Vehicle Code is amended to read:

2454. (a) The authority for the management of the scene of an on-highway hazardous substance spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the spill occurs. Responsibility for managing the scene of an on-highway hazardous substance spill or disaster shall continue until all emergency operations at the scene have been completed and order has been restored.

Notwithstanding the above provisions, the law enforcement agency having primary traffic investigative authority may enter into written agreements with other public agencies to facilitate management at the scene of an on-highway hazardous substance spill

or disaster on local streets and roads other than freeways.

(b) For purposes of this section, "management of the scene of an on-highway hazardous substance spill or disaster" means coordination of operations which occur at the location of a hazardous substance spill or disaster. This coordinating function does not include how the specialized functions provided by the various other responding agencies are to be performed. The agency managing the scene of an on-highway hazardous spill or disaster shall consult with other response agencies at the scene to insure that all appropriate resources are properly utilized. The agency managing the scene of an on-highway hazardous spill or disaster shall perform its coordinating function in a manner designed to minimize the risk of death or injury to other persons.

CHAPTER 624

An act to amend Section 7166 of, and to add Section 7166.5 to, the Business and Professions Code, relating to swimming pool contractors.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 7166 of the Business and Professions Code is amended to read:

7166. As used in this article, "swimming pool contractor" includes any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company who or which undertakes to, offers to undertake to, purports to have the capacity to undertake to, submits a bid to, or does itself, or by or through others, or on behalf of an owner-builder, construct any swimming pool.

SEC. 2. Section 7166.5 is added to the Business and Professions Code, to read:

7166.5. As used in this article, "swimming pool" includes any spa or hot tub which is to be permanently installed.

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.

CHAPTER 625

An act to amend Sections 6731, 8726, and 8742 of, and to add Sections 6731.1, 6731.2, 8726.1, and 8761.1 to, the Business and Professions Code, relating to civil engineering and land surveying.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 6731 of the Business and Professions Code is amended to read:

6731. Civil engineering embraces the following studies or activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbors, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewerage, refuse disposal, foundations, framed and homogeneous structures, buildings, or bridges:

(a) The economics of, the use and design of, materials of construction and the determination of their physical qualities.

(b) The supervision of the construction of engineering structures.

(c) The investigation of the laws, phenomena and forces of nature.

(d) Appraisals or valuations.

(e) The preparation or submission of designs, plans and specifications and engineering reports.

Civil engineering also includes city and regional planning insofar as any of the above features are concerned therein.

Civil engineers registered prior to January 1, 1982, shall be authorized to practice all land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3.

SEC. 2. Section 6731.1 is added to the Business and Professions Code, to read:

6731.1. Civil engineering also includes the practice or offer to practice, either in a public or private capacity, of all of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth's surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry or photogrammetry.

SEC. 3. Section 6731.2 is added to the Business and Professions Code, to read:

6731.2. Any registered civil engineer may offer to practice, procure, or offer to procure, land surveying work incidental to his or her civil engineering practice, even though he or she is not authorized to perform that work, provided all the land surveying

work is performed by, or under the direction of, a licensed land surveyor or registered civil engineer authorized to practice land surveying. Further, any registered civil engineer may manage or conduct as manager, proprietor, or agent, a civil engineering practice which offers to practice, procures, or offers to procure, such incidental land surveying work.

SEC. 4. Section 8726 of the Business and Professions Code is amended to read:

8726. A person practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth's surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry or photogrammetry.

(c) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

(d) Makes any survey for the subdivision or resubdivision of any tract of land.

(e) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary, or corner, or sets, resets, or replaces any such monument or reference point.

(f) Geodetic or cadastral surveying.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (c), (d), (e), and (f).

(h) Indicates, in any capacity or in any manner, by the use of the title "land surveyor" or by any other title or by any other representation that he practices or offers to practice land surveying in any of its branches.

(i) Procures or offers to procure land surveying work for himself or others.

(j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed or practiced.

SEC. 5. Section 8726.1 is added to the Business and Professions Code, to read:

8726.1. Any licensed land surveyor may offer to practice, procure, or offer to procure civil engineering work incidental to his or her land surveying practice, even though he or she is not authorized to perform that work, provided all the civil engineering work is performed by or under the direction of a registered civil engineer. Further, any licensed land surveyor may manage or conduct as

manager, proprietor, or agent, a land surveying practice which offers to practice, procures, or offers to procure, such incidental civil engineering work.

SEC. 6. Section 8742 of the Business and Professions Code is amended to read:

8742. (a) The educational qualifications and experience in land surveying, which an applicant for the second division examination shall possess, shall be not less than the following prescribed minima:

(1) Graduation from a four-year curriculum with an emphasis in land surveying approved by the board or accredited by a national or regional accrediting agency recognized by the United States Office of Education at a postsecondary educational institution and two years of actual experience in land surveying, including one year of responsible field training and one year of responsible office training; or

(2) Actual experience in land surveying for at least six years, including one year of responsible field training and one year of responsible office training; or

(3) Registration as a civil engineer with two years of actual experience in land surveying.

(b) With respect to applicants for license as a land surveyor, the board:

(1) Shall count one year of postsecondary education in land surveying as one year of experience in land surveying up to a maximum of four years, provided the applicant has graduated from the course in land surveying and the curriculum in land surveying is approved by the board or is accredited by a regional or national accrediting agency recognized for the purpose by the United States Office of Education. Each year of study in an approved or an accredited course in land surveying without graduation shall be counted the same as one-half year of experience.

Each applicant claiming equivalent credit for education may be required to produce a complete transcript of all college level courses completed.

(2) May at its discretion give credit as experience in land surveying, not in excess of two years, for successfully passing the first division of the examination prescribed in Section 8741.

SEC. 7. Section 8761.1 is added to the Business and Professions Code, to read:

8761.1. The authority of a licensed land surveyor or registered civil engineer to prepare, sign, issue, stamp, or seal any map, plat, report, description, or other document shall be consistent with that person's authority to practice land surveying.

CHAPTER 626

An act to amend Section 11372.5 of the Health and Safety Code, and to amend Section 1001.15 of the Penal Code, relating to controlled substance offenses.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 11372.5 of the Health and Safety Code is amended to read:

11372.5. (a) Every person who is convicted of a violation of Section 11350, 11351, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, or 11550 or subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 shall pay a criminal laboratory analysis fee in the amount of fifty dollars ($50) for each separate offense. The court shall increase the total fine 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 an amount not to exceed fifty dollars ($50), which shall constitute the increment prescribed by this section and which shall be in addition to any other penalty prescribed 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, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, or 11550, subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360, in addition to 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 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. Moneys in the criminalistics laboratory fund shall be in addition to any allocations pursuant to existing law. As

used in this section, "criminalistics laboratory" means a laboratory operated by, or under contract with, a city, county, or other 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 and reasonable 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 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. Section 1001.15 of the Penal Code is amended to read:

1001.15. In addition to the fees authorized or required by other provisions of law, a judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, by a defendant accused of a felony to cover the cost of any criminal laboratory analysis and the cost of processing a request or application for diversion pursuant to Chapter 2.5 (commencing with Section 1000), or Chapter 2.6 (commencing with Section 1000.6), not to exceed one hundred dollars ($100). The fee shall be payable at the time of enrollment in the diversion program. The court shall take into consideration the defendant's ability to pay, and no defendant shall be denied diversion because of his or her inability to pay.

In counties served by criminalistics laboratories of the Department of Justice, amounts deposited in the criminalistics laboratories fund, after deduction of appropriate and reasonable 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 General Fund, and shall be excepted from the expenditure requirements otherwise prescribed by this subdivision.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 627

An act to amend Section 1760.5 of the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 1760.5 of the Welfare and Institutions Code is amended to read:

1760.5. The director may require persons committed to the authority to perform work necessary and proper to be done by the Department of Forestry, the Department of Water Resources, the Department of Parks and Recreation, and the Department of Fish and Game, by the Division of State Lands, by the United States Department of Agriculture, and by the federal officials and departments in charge of national forests and parks within this state. For the purposes of this section, the director, with the approval of the Department of General Services, may enter into contracts with federal and state officials and departments. All moneys received by the director pursuant to any of those contracts shall be paid into the State Treasury to the credit and in augmentation of the current appropriation for the support of the authority. The director may provide, from those moneys, for the payment of wages to the wards for work they do pursuant to any of those contracts, the wages to be paid into the Indemnity Fund created pursuant to Section 13967 of the Government Code, or to the parents or dependents of the ward, or to the ward in the manner and in those proportions as the Department of the Youth Authority directs.

CHAPTER 628

An act to add and repeal Chapter 25 (commencing with Section 7800) to Division 7 of Title 1 of the Government Code, relating to public facilities.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Chapter 25 (commencing with Section 7800) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 25. LAVATORIES IN PUBLIC FACILITIES

7800. Lavatories in restrooms of public facilities constructed after January 1, 1985, shall be equipped with all of the following:

(a) Outlet devices which limit the flow of hot water to a maximum of 0.5 gallons per minute (0.032 litres per second) or, be equipped with self-closing faucets that limit delivery to a maximum of 0.25 gallons (0.94 litres) of hot water for recirculating systems and to a maximum of 0.5 gallons (1.9 litres) for nonrecirculating systems.

(b) Devices which limit the outlet temperature to a maximum of 43°C (110 F).

Separate lavatories for physically handicapped persons shall not be equipped with self-closing faucets unless the faucets remain open for at least 10 seconds.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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. 3. Section 1 of this act shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date.

CHAPTER 629

An act to add and repeal Section 14253 of the Elections Code, relating to elections, and making an appropriation therefor.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 14253 is added to the Elections Code, to read:

14253. (a) At all elections a voter claiming to be properly registered, and whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon registration of the records on file with the county clerk, shall be entitled to vote a special challenged ballot. The special challenged ballot shall be substantially in the form of the absentee ballot.

(b) Once voted, the voter's ballot shall be sealed in a special challenged ballot envelope, and the ballot in its envelope shall be placed in a sealed container reserved for that purpose. The ballot envelopes specified in this subdivision shall be printed in a color

different than the color of, but substantially similar to the envelopes used for absentee ballots and shall be completed in the same manner as absentee envelopes.

(c) During the official canvass, the clerk shall examine the records of registration with respect to all special challenged ballots cast because the voter's affidavit of registration was not immediately available.

Special challenged ballots shall not be included in any semiofficial or official canvass, except upon (1) the clerk's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote or (2) order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this section regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

A precinct board member shall notify the voter of the contents of this subdivision at the time of receiving the special challenged ballots.

(d) The Secretary of State may adopt appropriate regulations for purposes of assuring the uniform application of this section.

(e) This section shall not apply to the situations described in Sections 804 and 14216.

(f) This section shall be operative until January 1, 1990, and as of that date is repealed.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 630

An act to amend Sections 709, 712, 716, 724, 730, 732, and 734 of, and to add Section 739 to, the Harbors and Navigation Code, relating to yacht and ship brokers.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983]

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

SECTION 1. Section 709 of the Harbors and Navigation Code is amended to read:

709. No licensed broker or licensed salesman shall practice any fraud or deceit or make any fraudulent or grossly negligent

representation with respect to any act for which a license is required under this article.

SEC. 2. Section 712 of the Harbors and Navigation Code is amended to read:

712. (a) No licensed broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed broker or salesman licensed under the broker employing or compensating him or her, except that a licensed broker may pay a commission to a broker of another state or country.

(b) No salesman shall accept compensation for performing any of the acts within the scope of this article from any person other than the broker under whom the salesman is at the time licensed.

(c) No licensed salesman shall pay any compensation for performing any of the acts within the scope of this article to any broker licensed under this article, except through the licensed broker under whom the salesman is at the time licensed.

SEC. 3. Section 716 of the Harbors and Navigation Code is amended to read:

716. (a) No broker shall engage in any transaction for which a license is required under this article without first obtaining a signed written authorization from the broker's principal or principals to do so. An authorization to sell shall contain a description of the vessel, including the undocumented vessel's registration number or the name, official number, and home port if the vessel is documented with a federal agency. The written authorization shall also state the type of listing, the gross listing price, and the agreed upon commission or other compensation accruing to the broker.

(b) An offer to purchase shall contain the description of the yacht, including the undocumented vessel's registration number or the name, official number, and home port if the vessel is documented with a federal agency. The written authorization to purchase shall also state the amount of deposit, terms of the sale, and any contingencies or conditions under which a deposit shall not be returned if the sale is not completed.

(c) When a broker prepares, or there is prepared on behalf of a broker, a written authorization to sell or purchase, the broker shall deliver a copy of the written authorization to the person executing it. Receipt of the copy shall be made on the face of the original written authorization.

SEC. 4. Section 724 of the Harbors and Navigation Code is amended to read:

724. (a) An application on the form prescribed by the department for the renewal of a broker or salesman license shall be filed with the department prior to the last day of the period for which a previous license was issued, accompanied by the applicable renewal fee.

(b) Every license not renewed in accordance with subdivision (a) shall expire at midnight of the last day of the period for which it was

issued and shall immediately be returned to the department. The license may thereafter be reinstated only upon the filing of an application therefor, accompanied by the payment of the renewal fee required by this article, together with a penalty equal to 50 percent of the renewal fee. No examination shall be required for the reinstatement of a license which has expired solely for nonpayment of the renewal fee as required by this subdivision, subject to Section 726.

(c) An application for the reinstatement of a license which has expired pursuant to subdivision (b) shall be executed under penalty of perjury. The department may refuse to grant reinstatement if the applicant, after the expiration of the license, has performed any act or participated in any transaction for which a license is required by this article or, during the period, has committed any offense or performed any act which would be cause for the suspension or revocation of a license under this article. However, the department shall not refuse to grant reinstatement unless written notice of the grounds of the refusal is mailed or delivered to the applicant.

(d) A salesman's license which expires other than pursuant to subdivision (b) and under conditions beyond the control of the salesman may be reinstated with another broker on payment of the transfer fee and the renewal fee if applicable and without penalty.

(e) All fees charged and collected under this article shall be paid by the department at least once a month, accompanied by detailed statement, into the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

(f) All fees charged and collected under this article and paid into the State Treasury are continuously appropriated to carry out the provisions of this article and shall be paid in the manner provided by law.

(g) The department may establish a revolving fund in an amount that it may determine subject to the approval of the director.

SEC. 5. Section 730 of the Harbors and Navigation Code is amended to read:

730. (a) Before any broker's license shall be issued or renewed by the department for any applicant, the applicant shall procure, file, and maintain with the department a good and sufficient bond in the amount of ten thousand dollars ($10,000) with a corporate surety duly licensed to do business within the State of California, and conditioned that the applicant shall not practice any fraud or deceit or make any fraudulent or grossly negligent representations which will cause a monetary loss to any person for whom the broker acts under this article.

(b) If any person suffers any loss or damage by reason of any fraud or deceit practiced on that person or any fraudulent or grossly negligent representation made to that person by a licensed broker or the broker's salesman or salesmen acting for the broker on the broker's behalf or within the scope of the employment of the salesman or salesmen, which fraud, deceit, or fraudulent or grossly

negligent representation is practiced or made with respect to any act of the broker or the salesman or salesmen for which a license is required under this article, that person has a right of action against the broker, the salesman or salesmen, and the surety upon the broker's bond. If any action is commenced upon the bond, the surety thereunder and the licensed yacht broker with respect to whom the bond has been issued shall immediately notify the department of the action.

(c) When an action is commenced on the bond of a licensed broker, the department may require the filing of an additional bond, and immediately upon the recovery in any action on the bond, the broker described therein shall file a new bond. Failure to file an additional bond within 15 days after notification that an additional bond is required by reason of action against the bond or after recovery on a bond constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled or on whose bond recovery has been made may be suspended.

(d) When a broker's bond is canceled for a reason other than an action being commenced upon it, a new bond shall be filed by the broker. Failure to file a new bond within 30 days after notification that a new bond is required because a previous bond has been canceled constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled may be suspended.

SEC. 6. Section 732 of the Harbors and Navigation Code is amended to read:

732. The department may deny an application or temporarily suspend or permanently revoke the license of a broker or a salesman at any time where the licensee, while a broker or salesman, in performing or attempting to perform any of the acts within the scope of this article, has committed any of the following acts:

(a) Makes any substantial misrepresentation, including a false advertisement or an omission of relevant facts upon which any person has relied.

(b) Makes a false warranty of a character likely to influence, persuade, or induce any person with whom business is transacted under this article.

(c) Engages in a continued and flagrant course of misrepresentation or makes false warranties whether or not relied upon by another person.

(d) Acts for the buyer and seller in a transaction without the knowledge and consent of both parties, except in the case where the selling broker is not the listing broker.

(e) Commingles the money or other property of his or her principal with that of his or her own or uses it for any purpose other than that for which it was entrusted, when the yacht involved in the transaction is not his or her own.

(f) Disburses or uses entrusted money for purposes other than

those specifically authorized by Section 714.

(g) Uses coercive or oppressive methods for the purpose of obtaining business or of procuring a listing or participating in a transaction.

(h) Quotes prices different than the gross listing prices without the consent of the seller.

(i) Engages in any other conduct constituting fraud or dishonest dealings, either with respect to his or her principal or other persons.

(j) Permits his name to be used for the purpose of assisting any person who is not a licensed broker or salesman to evade this article.

(k) Violates any provisions of Sections 708, 712, 714, 715, 716, 730, and 731.

SEC. 7. Section 734 of the Harbors and Navigation Code is amended to read:

734. (a) The department shall not deny, suspend, or revoke a license granted under this article without a hearing, except the department may suspend a license without a hearing for failure of a broker to maintain a bond as specified in subdivision (d) of Section 730.

(b) The department may upon its own motion, and shall upon the verified written complaint of any person which sets forth facts which could be grounds for the denial, suspension, or revocation of a license pursuant to this article, investigate the actions of any broker or salesman whether or not licensed.

(c) The suspension, expiration, or revocation by operation of law of a license issued by the department, or its surrender, whether voluntary or not, does not deprive the department of its authority, during the period in which the license may be renewed, reinstated, or reissued, to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law, to enter an order suspending or revoking the license, or to take any action against the licensee on any other ground provided by law.

SEC. 8. Section 739 is added to the Harbors and Navigation Code, to read:

739. Any person who violates any provision of this article, or any regulation adopted pursuant to this article, shall be liable for a civil penalty in an amount not less than one hundred dollars ($100) and not to exceed one thousand five hundred dollars ($1,500) for each separate violation. The penalties provided in this section are in addition to the remedies or penalties available under all other laws of this state.

Every civil action brought under this article at the request of the director shall be brought by the Attorney General in the name of the people of the State of California, in any court of competent jurisdiction, except that, when the civil action is to be filed in a small claims court, the director may bring the action.

The amount of penalty which is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of the violation upon the

implementation of the purposes and provisions of this article. Any sum which is recovered under this section shall be deposited in the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 631

An act to amend Section 19590 of the Government Code, relating to demotions of state civil service managerial employees.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 19590 of the Government Code is amended to read:

19590. Notwithstanding the provisions of Article 3 (commencing with Section 19570), persons who have been designated as managerial employees under Section 3513 from the beginning of their current appointment, but whose positions are not in the career executive category shall hold their appointments subject to the following adverse action process:

(a) The employee may be demoted from a managerial position under the provisions of this section for any of the causes specified in Section 19572, but shall not be demoted for any cause constituting prohibited discrimination as set forth in Sections 19700 to 19703, inclusive.

(b) At least 20 days prior to the effective date of the demotion, the appointing power shall give the employee written notice of the proposed action setting forth the reasons for the action, the effective date of the action, the right of the employee to answer the notice orally or in writing within 10 days of receipt of notice, and the employee's appeal rights. Within 15 days after the effective date of the demotion, a copy thereof shall be filed with the board.

(c) The board, at the written request of a demoted managerial employee filed within 30 days of the employees receipt of the demotion notice, may investigate with or without a hearing the reasons for demotion. After this investigation, the board shall do either of the following:

(1) Affirm or reduce the action of the appointing power.

(2) Restore the employee to the position from which the employee was demoted. This restoration shall be done only if the board determines, after hearing, that there is no substantial evidence to support the reason or reasons for demotion, or that the demotion was made in fraud or bad faith. At the hearing the terminated managerial employee shall have the burden of proof. Subject to rebuttal by the employee, it shall be presumed that the demotion was free from fraud and bad faith and that the statement of reasons in the notice of demotion is true.

CHAPTER 632

An act to amend Section 26708 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 26708 of the Vehicle Code is amended to read:

26708. (a) (1) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows.

(2) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed, or applied in or upon the vehicle which obstructs or reduces the driver's clear view through the windshield or side windows.

(3) This subdivision applies to a person driving a motor vehicle with the driver's clear vision through the windshield, or side or rear windows, obstructed by snow or ice.

(b) This section does not apply to:

(1) Rearview mirrors.

(2) Adjustable nontransparent sunvisors which are mounted forward of the side windows and are not attached to the glass.

(3) Signs, stickers, or other materials which are displayed in a 7-inch square in the lower corner of the windshield farthest removed from the driver, signs, stickers, or other materials which are displayed in a 7-inch square in the lower corner of the rear window farthest removed from the driver, or signs, stickers, or other materials which are displayed in a 5-inch square in the lower corner of the windshield nearest the driver.

(4) Side windows which are to the rear of the driver.

(5) Direction, destination, or termini signs upon a passenger common carrier motor vehicle, providing such signs do not interfere with the driver's clear view of approaching traffic.

(6) Rear window wiper motor.

(7) Rear trunk lid handle or hinges.

(8) The rear window or windows, when the motor vehicle is equipped with outside mirrors on both the left- and right-hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least 200 feet to the rear of the vehicle.

(9) A clear, transparent lens affixed to the side window opposite the driver on a vehicle greater than 80 inches in width and which occupies an area not exceeding 50 square inches of the lowest corner toward the rear of that window and which provides the driver with a wide-angle view through the lens.

(c) Notwithstanding subdivision (a), transparent material may be installed, affixed, or applied to the topmost portion of the windshield if:

(1) The bottom edge of the material is at least 29 inches above the undepressed driver's seat when measured from a point 5 inches in front of the bottom of the backrest with the driver's seat in its rearmost and lowermost position with the vehicle on a level surface.

(2) The material is not red or amber in color.

(3) There is no opaque lettering on the material and any other lettering does not affect primary colors or distort vision through the windshield.

(4) The material does not reflect sunlight or headlight glare into the eyes of occupants of oncoming or following vehicles to any greater extent than the windshield without the material.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 633

An act to amend Section 41604 of, and to add Sections 41605.5 and 42314.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 41604 of the Health and Safety Code is amended to read:

41604. (a) The districts shall provide for, not later than July 1,

1984, and shall periodically revise as appropriate, the necessary mitigation of the air quality impact of (1) projects smaller than 50 megawatts expected to be permitted by 1987, pursuant to Section 42314, or (2) projects granted offset credits pursuant to Section 42314.5, so that state and federal ambient air quality standards may be achieved and maintained or that reasonable further progress be made toward attainment.

(b) If appropriate, the districts shall submit to the state board the necessary mitigation measures required by subdivision (a) of Section 41604 for inclusion in the next state implementation plan revisions.

SEC. 2. Section 41605.5 is added to the Health and Safety Code, to read:

41605.5. (a) In considering the offset requirement for a project facility which utilizes agricultural waste products, forest waste products, or similar organic wastes as biomass fuel in a steam generator (boiler) or to produce electrical energy, the district shall include the incremental emissions benefit that occurs because those wastes are not disposed of by open field burning or by forest land burning if the biomass fuel would ordinarily or otherwise be burned in that manner in the same air basin. The emissions credit shall be offset at a ratio of 1.2 to 1 for nonattainment pollutants if within 15 miles, and at a ratio of 2 to 1 if further than 15 miles within the same air basin.

(b) By July 1, 1984, the districts and the state board, in cooperation, shall develop a procedure to determine the availability and magnitude of the offsets resulting from the incremental emissions benefits, including an accounting of the quantity of biomass material credits calculated for purposes of Section 42314.5 as necessary to assure that state and federal ambient air quality standards may be achieved and maintained, or that reasonable further progress be made toward attainment.

(c) The applicant shall provide the state board or a district, as the case may be, the information not publicly available from state or local agencies which is necessary to make the determinations required by this section. The information shall include, but is not limited to, the following:

(1) The quality of fuel to be burned in the facility.

(2) The type of fuel to be burned in the facility.

(3) The source of the fuel to be burned in the facility.

SEC. 3. Section 42314.5 is added to the Health and Safety Code, to read:

42314.5. In considering a permit for a facility which utilizes agricultural waste products, forest waste products, or similar organic wastes as biomass fuel in a steam generator (boiler) or to produce electrical energy, the district shall allow offset credits as provided in Sections 41604 and 41605.5.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 634

An act to amend Section 65915 of, and to add Section 65915.5 to, the Government Code, relating to housing.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 65915 of the Government Code is amended to read:

65915. (a) When a developer of housing agrees to construct at least 25 percent of the total units of a housing development for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, or 10 percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code, a city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value.

(b) A developer may submit to a city, county, or city and county a preliminary proposal for the development of housing pursuant to this section prior to the submittal of any formal requests for general plan amendments, zoning amendments, or subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the housing developer in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(c) For the purposes of this chapter, "density bonus" means a density increase of at least 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. The density bonus shall not be included when determining the number of housing units which is equal to 10 or 25 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(d) If a developer agrees to construct both 25 percent of the total units for persons and families of low or moderate income and 10 percent of the total units for lower income households, the developer is entitled to only one density bonus under this section although the city, city and county, or county may, at its discretion, grant more than one density bonus.

SEC. 2. Section 65915.5 is added to the Government Code, to

read:

65915.5. (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the

authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 635

An act to amend Section 11512 of the Government Code, relating to administrative hearings.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 11512 of the Government Code is amended to read:

11512. (a) Every hearing in a contested case shall be presided over by a hearing officer. The agency itself shall determine whether the hearing officer is to hear the case alone or whether the agency itself is to hear the case with the hearing officer.

(b) When the agency itself hears the case, the hearing officer shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the hearing officer. When the hearing officer alone hears a case he or she shall exercise all powers relating to the conduct of the hearing.

(c) A hearing officer or agency member shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or agency member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the request concerns an agency member, the issue shall be determined by the other members of the agency. Where the request concerns the hearing officer, the issue shall be determined by the agency itself if the agency itself hears the case with the hearing officer, otherwise the issue shall be determined by the hearing officer. No agency member shall withdraw voluntarily or be subject to disqualification if his or her disqualification would prevent the existence of a quorum qualified to act in the particular case.

(d) The proceedings at the hearing shall be reported by a phonograhic reporter; except that, upon the consent of all the parties, the proceedings may be reported electronically.

(e) Whenever, after the agency itself has commenced to hear the case with a hearing officer presiding, a quorum no longer exists, the hearing officer who is presiding shall complete the hearing as if sitting alone and shall render a proposed decision in accordance with

subdivision (b) of Section 11517 of the Government Code.

CHAPTER 636

An act to amend Section 1766.5 of the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 1766.5 of the Welfare and Institutions Code is amended to read:

1766.5. The director shall establish and maintain a fair, simple, and expeditious system for resolution of grievances of all persons committed to the Youth Authority regarding the substance or application of any written or unwritten policy, rule, regulation, or practice of the department or of an agent or contractor of the department or any decision, behavior, or action by an employee, agent, contractor, or other person confined within the institutions or camps of the Youth Authority which is directed toward the grievant, other than matters involving individual discipline. The system shall do all of the following:

(a) Provide for the participation of employees of the department and of persons committed to the Youth Authority on as equal a basis and at the most decentralized level reasonably possible and feasible in the design, implementation, and operation of the system.

(b) Provide, to the extent reasonably possible, for the selection by their peers of persons committed to the Youth Authority as participants in the design, implementation, and operation of the system.

(c) Provide, within specific time limits, for written responses with written reasons in support of them to all grievances at all decision levels within the system.

(d) Provide for priority processing of grievances which are of an emergency nature which would, by passage of time required for normal processing, subject the grievant to substantial risk of personal injury or other damage.

(e) Provide for the right of grievants to be represented by another person committed to the Youth Authority who is confined within the institutions or camps of the Youth Authority, by an employee, or by any other person, including a volunteer, who is a regular participant in departmental operations.

(f) Provide for safeguards against reprisals against any grievant or participant in the resolution of a grievance.

(g) Provide, at one or more decision levels of the process, for a full hearing of the grievance at which all parties to the controversy and

their representatives shall have the opportunity to be present and to present evidence and contentions regarding the grievance,

(h) Provide a method of appeal of grievance decisions available to all parties to the grievance, including, but not limited to, final right of appeal to advisory arbitration of the grievance by a neutral person not employed by the department, the decision of the arbitrator to be adopted by the department unless the decision is in violation of law, would result in physical danger to any persons, would require expenditure of funds not reasonably available for that purpose to the department, or, in the personal judgment of the director, would be detrimental to the public or to the proper and effective accomplishment of the duties of the department.

(i) Provide for the monitoring of the system by the department and also, pursuant to contract or other appropriate means, for a biennial evaluation of the system by a public or private agency independent of the department to the extent necessary to ascertain whether the requirements of this section are being met. The results of which evaluation shall be filed with the department, the Legislature, the Attorney General, and the State Public Defender.

CHAPTER 637

An act to amend Section 13352 and 23170 of, and to add Sections 23175 and 23176 to, the Vehicle Code, relating to driving offenses.

[Approved by Governor August 31, 1983 Filed with Secretary of State September 1, 1983]

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

SECTION 1. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153. For the purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege or if the court does not grant probation.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the

person gives proof of ability to respond in damages as defined in Section 16430.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(7) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23175, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (7), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153, as specified in subdivision (a), is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and such a conviction of an offense which, if committed in this state, would be a violation of Section 23153 is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege

to operate a motor vehicle pursuant to this section upon receiving notice of such a conviction.

SEC. 2. Section 23170 of the Vehicle Code is amended to read:

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two prior offenses which resulted in convictions of violations of Section 23152 or 23153 or both, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

SEC. 3. Section 23175 is added to the Vehicle Code, to read:

23175. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of three or more prior offenses which resulted in convictions of violations of Section 23152 or 23153 or both, that person shall be punished by imprisonment in the county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

SEC. 4. Section 23176 is added to the Vehicle Code, to read:

23176. (a) If the court grants probation to any person punished under Section 23175, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 180 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23175 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for a least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (7) of subdivision (a) of Section 13352.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 638

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.

California water districts.

Cemetery districts.

Citrus pest control districts.

City general improvement district improvement districts.

City general improvement districts.

City maintenance districts.

Community college districts.

Community facilities districts.

Community service district improvement districts.

Community service districts.

Conservancy districts.

County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authority.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.

Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.

Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such

territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a

contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the Third Validating Act of 1983.

CHAPTER 639

An act to amend Sections 20022, 20390, 20560, 20561, 20562, 21151, and 75108 of, and to add Sections 20562.1 and 20759.3 to, the Government Code, relating to public employees' retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 20022 of the Government Code is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a

member by his employer in payment for his services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5; (4) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (5) any special compensation for performing normally required duties such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out of class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, split shift differential and substitute differential in Sections 45196 and 88196 of the Education Code; (6) compensation for uniforms; (7) any other payments the board may determine to be compensation.

(b) "Compensation" shall not include: (1) the provision by an employer of any medical or hospital service or care plan or insurance plan (other than the purchase of annuity contracts referred to in this section) for its employees, any contribution by an employer to meet the premium or charge for such plan, or any payment into a private fund to provide health and welfare benefits for its employees; (2) any payment by an employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act; (3) amounts not available for payment of salaries and which are applied by an employer for the purchase of annuity contracts including those which meet the requirements of Section 403(b) of the Internal Revenue Code of the United States; (4) the bonus sum provided for low-paid state employees in the Budget Act of 1975; (5) any benefits paid pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division; (6) employers' payments which are to be credited as employee contributions for benefits provided by this system, or employers' payments which are to be credited to employee accounts in deferred compensation plans; provided, that amounts deducted from a member's wages for participation in a deferred compensation plan pursuant to paragraph (3) of subdivision (a) shall not be considered to be employer's payments; (7) payments for lump-sum vacation or compensating time off upon termination of employment; (8) final settlement pay; (9) lump-sum sick leave payment; (10) payments for overtime, including pay in lieu of vacation or holiday; (11) special compensation for additional services outside regular duties, such as standby pay, callback pay,

court duty, allowance for automobile, bonuses for duties performed after regular work shift; and (12) any other payments the board may determine not to be compensation.

SEC. 2. Section 20390 of the Government Code is amended to read:

20390. A person ceases to be a member:

(a) Upon retirement.

(b) If he is paid his normal contributions, if he is paid a portion of his normal contributions where more than one payment is made, or such contributions are held pursuant to Section 20208. For the purposes of this subdivision, (1) deposit in the United States mail of a warrant drawn in favor of a member, addressed to the latest address of the member on file in the office of this system, constitutes payment to the member of the amount for which the warrant is drawn or (2) electronic fund transfer to the person's bank, savings and loan association or credit union account, constitutes payment to the person of the amount of the warrant of funds electronically transferred.

(c) If the member has less than five years of service credit and no accumulated contributions in the retirement fund at the time of termination of service.

SEC. 3. Section 20560 of the Government Code is amended to read:

20560. If the contract has been in effect for at least five years and was approved by an ordinance or resolution adopted by the governing body of the contracting agency, the governing body may terminate it by the adoption of a resolution giving notice of intention to terminate, and by the adoption, not less than one year thereafter by the affirmative vote of two-thirds of the members of the governing body, of an ordinance or resolution terminating the contract. Termination shall be effective with board approval on the date designated in the ordinance or resolution terminating the contract.

SEC. 4. Section 20561 of the Government Code is amended to read:

20561. If the contract has been in effect for at least five years and was approved by an ordinance adopted by a majority vote of the electorate, termination by the contracting agency may be effected not less than one year after authority has been granted by ordinance adopted by a majority vote of the electorate of the contracting agency voting thereon. Termination shall be effective with board approval on the date designated in the ordinance or resolution terminating the contract.

SEC. 5. Section 20562 of the Government Code is amended to read:

20562. If a contracting agency fails for 30 days after demand by the board to pay any installment of contributions required by its contract, or fails for three months after demand by the board therefor to file any information required in the administration of the

system with respect to that agency's employees, or if the board determines that the agency is no longer in existence, the board may terminate that contract by resolution adopted by a majority vote of its members effective 60 days after notice of its adoption has been mailed by registered mail to the governing body of the contracting agency.

SEC. 6. Section 20562.1 is added to the Government Code, to read:

20562.1. Notwithstanding any other provision of law, the board may negotiate with the governing board of the terminating agency, or the governing board of any agency or agencies which may be assuming any portion of the liabilities of the terminating agency as to the effective date of termination and the terms and conditions of the termination and of the payment of unfunded liabilities.

For purposes of payment of unfunded actuarial liabilities this section shall also apply to inactive contracting agencies, or an inactive member category as determined by the board.

SEC. 7. Section 20759.3 is added to the Government Code, to read:

20759.3. A contracting agency shall not be an employer for purposes of Section 20759, if the board determines that the agency has no active employees eligible for coverage under Section 20759.

SEC. 8. Section 21151 of the Government Code is amended to read:

21151. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system,

(a) As a member of any board, commission or advisory committee, upon appointment by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a state department, or the governing board of the contracting agency; provided, however, that such appointment shall not be deemed employment within the meaning of Division 4 (commencing with Section 3201) and Division 4.5 (commencing with Section 6100) of the Labor Code, and shall not provide a basis for the payment of workers' compensation to a retired state employee or to his dependents.

(b) As a school crossing guard.

(c) As a juror or election officer.

(d) As an elective officer on and after September 15, 1961; provided, however, that all rights and immunities which may have accrued under Section 21158 as it read prior to that section's repeal during the 1969 Regular Session of the Legislature are hereby preserved.

(e) As an appointive member of the governing body of a contracting agency; provided the compensation for such office does not exceed one hundred dollars ($100) per month.

(f) Upon appointment by the Legislature, or either house, or a legislative committee to a position deemed by such appointing power to be temporary in nature.

SEC. 9. Section 75108 of the Government Code is amended to read:

75108. Notwithstanding any other provision, all expenses of administration of this article shall be paid by appropriation from the fund.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the savings provided by this act may be effectuated at the earliest possible time it is necessary that this act take effect immediately.

CHAPTER 640

An act to add Section 25613 to the Health and Safety Code, relating to radioactive waste.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 25613 is added to the Health and Safety Code, to read:

25613. (a) The Legislature finds and declares that the dumping of radioactive waste, including the scuttling of radioactive nuclear submarines, into the Pacific Ocean, could adversely affect the California coastal zone.

(b) The California Coastal Commission, in cooperation when appropriate with the department, the Department of Justice, the Department of Fish and Game, and the Joint Committee on Fisheries and Aquaculture, shall use any means available to the commission, pursuant to law, to prevent any dumping of radioactive waste in the Pacific Ocean by any public or private entity, unless the commission finds that the dumping would be consistent with the goals and policies of Division 20 (commencing with Section 30000) of the Public Resources Code.

CHAPTER 641

An act to amend Section 92620 of, and to add Section 66605.5 to, the Education Code, relating to state government.

[Approved by Governor September 1, 1983 Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 66605.5 is added to the Education Code, to read:

66605.5. (a) The Legislature, having recognized December 1980 statistics from the United States Department of Labor, finds: that 60 percent of all women 18 to 64 are in the workforce, that two-thirds of all those women are either the head of household or had husbands whose earnings were less than ten thousand dollars ($10,000), and that most women are in the workforce because of economic need; that the average working woman has earned less than the average working man, not only because of the lack of educational and employment opportunities in the past, but because of segregation into historically undervalued occupations where wages have been depressed; and that a failure to reassess the basis on which salaries in state service, including those for California State University employees, are established will perpetuate these pay inequities, which have a particularly discriminatory impact on minority and older women; and, therefore, it is the intent of the Legislature in enacting this statute to establish a state policy of setting salaries for female-dominated jobs on the basis of comparability of the value of the work, pursuant to Section 19827.2 of the Government Code.

(b) The Trustees of the California State University shall review and analyze existing information, including those studies from other jurisdictions relevant to the setting of salaries for female-dominated jobs. This information shall be provided on an annual basis to the appropriate policy committee of the Legislature and to the parties meeting and conferring pursuant to Section 3570.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Sections 3517.5 and 3572, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Section 92620 of the Education Code is amended to read:

92620. (a) It is the intent of the Legislature that the Regents of the University of California shall eliminate all policies which detrimentally and unreasonably affect the employment status of females hired by the university. To accomplish this purpose, the regents shall:

(1) Review hiring, wages, job classifications and advancement practices as applied to female employees.

(2) Review selection procedures utilized for employment of female employees to determine disparate selection practices.

(3) Review opportunity of advancement for qualified female

employees to executive positions within departments and divisions.

(b) The regents shall submit to the appropriate policy committee of the Legislature and to any other interested party the study that is presently being conducted to review and analyze information relevant to the setting of salaries for female-dominated jobs. The report shall be prepared, using the definitions contained in subdivision (c) of Section 19827.2 of the Government Code, and shall be submitted to the Legislature on or before April 1, 1984.

CHAPTER 642

An act to amend Section 1373.6 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 1373.6 of the Health and Safety Code is amended to read:

1373.6. (a) Except in the case of a specialized health care service plan contract, every group contract entered into, amended or renewed on or after January 1, 1983, that provides hospital, medical, or surgical expense benefits for employees or members shall provide that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

(1) The group contract terminated or an employer's participation terminated.

(2) The employee or member failed to pay amounts due the health care service plan.

(3) The employee or member was terminated by the health care service plan from the plan for good cause.

(4) The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

(5) The employer's hospital, medical, or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

(1) Such person is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act.

(2) The person is covered by or is eligible for hospital, medical, or surgical benefits under state or federal law.

(3) The person is covered by or is eligible for hospital, medical, or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

(4) The person is covered for similar benefits by an individual policy or contract.

(5) The person has not been continuously covered during the three-month period immediately preceding that person's termination of coverage.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and first premium payment for the conversion contract shall be made not later than 31 days after termination from the group.

(f) The conversion contract shall cover the employee or member and his or her dependents who were covered under the group contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage. However, it shall be the sole responsibility of the employer to notify its employees of the availability, terms, and conditions of the conversion coverage which responsibility shall be satisfied by notification within 15 days of termination of group coverage excluding any period during which there is any continuation or extension of the group coverage. For purposes of this subdivision, the employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms, and conditions of conversion coverage.

(h) As used in this section, "hospital, medical, or surgical benefits under state or federal law" do not include 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, or Title XIX of the United States Social Security Act.

CHAPTER 643

An act to amend Section 2885 of the Civil Code, and to amend Sections 17054, 17265, 23301, and 23571 of, and to add Section 17225 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 2885 of the Civil Code is amended 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, unless previous correspondence mailed to the address of record was returned undelivered with no forwarding address. 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 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals computing their tax under Section 17041 or Section 17048, the following credits for personal exemption may be deducted from the tax imposed.

(a) In the case of a single individual, or a married individual making a separate return a credit of twenty-five dollars ($25).

(b) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of fifty dollars ($50). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) Except as provided in subdivision (e) of Section 17057, a credit of eight dollars ($8) for each dependent (as defined in Section 17056)—

(1) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars ($1,000), or

(2) Who is a child of the taxpayer and who (A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (B) is a student.

(3) No exemption shall be allowed under this subdivision for any dependent who has made a joint return with his spouse under Section 18402 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(4) For purposes of paragraph (2), the term "child" means an individual who (within the meaning of Section 17056) is a son, stepson, daughter or stepdaughter of the taxpayer.

(5) For purposes of subparagraph (B) of paragraph (2) of this subdivision and Section 17059, the term "student" means an individual who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) Is a full-time student at an educational institution; or

(B) Is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state.

For purposes of this paragraph, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its

educational activities are carried on.

(d) A credit for personal exemption of eight dollars ($8) for the taxpayer if he is blind at the close of his taxable year.

(e) A credit for personal exemption of eight dollars ($8) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f) For the purposes of this section, an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(g) For taxable years beginning after December 31, 1977 and before January 1, 1979, the twenty-five dollars ($25) specified in subdivision (a) shall be one hundred dollars ($100) instead of twenty-five dollars ($25), and the fifty dollars ($50) specified in subdivision (b) shall be two hundred dollars ($200) instead of fifty dollars ($50). If the taxpayer has more than one taxable year beginning after December 31, 1977 and before January 1, 1979, such taxpayer shall be allowed the increased exemption provided by this subdivision only with respect to the taxable year which covers the most number of months.

(h) For each taxable year beginning on or after January 1, 1979, and ending on or before November 30, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of 1978 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1977 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

(i) For each taxable year beginning on or after January 1, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index as modified for rental equivalent homeownership for all items from June of 1983 to June of

the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1983 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 2.5. Section 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals computing their tax under Section 17041 or Section 17048, the following credits for personal exemption may be deducted from the tax imposed.

(a) In the case of a single individual, or a married individual making a separate return a credit of twenty-five dollars ($25).

(b) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of fifty dollars ($50). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) Except as provided in paragraph (6), a credit of eight dollars ($8) for each dependent (as defined in Section 17056)—

(1) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars ($1,000), or

(2) Who is a child of the taxpayer and who (A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (B) is a student.

(3) No exemption shall be allowed under this subdivision for any dependent who has made a joint return with his spouse under Section 18402 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(4) For purposes of paragraph (2), the term "child" means an individual who (within the meaning of Section 17056) is a son, stepson, daughter or stepdaughter of the taxpayer.

(5) For purposes of subparagraph (B) of paragraph (2) of this subdivision and Section 152(d) of the Internal Revenue Code, the term "student" means an individual who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) Is a full-time student at an educational institution; or

(B) Is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state.

For purposes of this paragraph, the term "educational institution"

means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) If the taxpayer would not occupy the status of head of a household except by reason of there being one or more dependents for whom he or she would be entitled to claim a credit under subdivision (c), the credit shall be disallowed with respect to one of the dependents.

(d) A credit for personal exemption of eight dollars ($8) for the taxpayer if he is blind at the close of his taxable year.

(e) A credit for personal exemption of eight dollars ($8) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f) For the purposes of this section, an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(g) For taxable years beginning after December 31, 1977 and before January 1, 1979, the twenty-five dollars ($25) specified in subdivision (a) shall be one hundred dollars ($100) instead of twenty-five dollars ($25), and the fifty dollars ($50) specified in subdivision (b) shall be two hundred dollars ($200) instead of fifty dollars ($50). If the taxpayer has more than one taxable year beginning after December 31, 1977 and before January 1, 1979, such taxpayer shall be allowed the increased exemption provided by this subdivision only with respect to the taxable year which covers the most number of months.

(h) For each taxable year beginning on or after January 1, 1979, and ending on or before November 30, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of 1978 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1977 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided

in subdivision (a).

(i) For each taxable year beginning on or after January 1, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index as modified for rental equivalent homeownership for all items from June of 1983 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1983 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 2.7. Section 17225 is added to the Revenue and Taxation Code, to read:

17225. The term "tenant-stockholder's proportionate share," as defined in Section 216(b) (3) of the Internal Revenue Code, shall be applicable, except that, with respect to taxes, if the laws or ordinances of any state (or political subdivision thereof) permit or require a different allocation because of a separate appraisal of individual units, the term "proportionate share" means the amount so allocated.

SEC. 3. Section 17265 of the Revenue and Taxation Code is amended to read:

17265. For purposes of Section 17264 and this section—

(a) The term "cooperative housing corporation" means a corporation—

(1) Having one and only one class of stock outstanding,

(2) Each of the stockholders of which is entitled, solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation,

(3) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except on a complete or partial liquidation of the corporation, and

(4) Eighty percent or more of the gross income of which for the taxable year in which the taxes and interest described in Section 17264 are paid or incurred is derived from tenant-stockholders.

(b) The term "tenant-stockholder" means an individual who is a stockholder in a cooperative housing corporation, and whose stock is fully paid up in an amount not less than an amount shown to the satisfaction of the Franchise Tax Board as bearing a reasonable

relationship to the portion of the value of the corporation's equity in the houses or apartment building and the land on which situated which is attributable to the house or apartment which such individual is entitled to occupy.

(c) The term "tenant-stockholder's proportionate share" means that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation); except that, with respect to taxes, if the laws or ordinances of any state (or political subdivision thereof) permit or require a different allocation because of a separate appraisal of individual units, the term "proportionate share" means the amount so allocated.

(d) For purposes of this subdivision in determining whether a corporation is a cooperative housing corporation, stock owned and apartments leased by the United States or any of its possessions, a state or any political subdivision thereof, or any agency or instrumentality of the foregoing empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities, shall not be taken into account.

(e) So much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Franchise Tax Board, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under subdivision (a) of Section 17208 shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under subdivision (a) of Section 17208.

(f) If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition. The preceding sentence shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without the prior approval of such corporation.

(g) (1) If the original seller acquires any stock of the corporation—

(A) From the corporation by purchase, or

(B) By foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in such stock held by the original seller,

the original seller shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition.

(2) Paragraph (1) shall apply with respect to any acquisition of stock only if, together with such acquisition, the original seller

acquires the right to occupy an apartment or house to which such stock is appurtenant. For purposes of the preceding sentence, there shall not be taken into account the fact that, by agreement with the corporation, the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation.

(3) For purposes of this subdivision, the term "original seller" means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).

SEC. 4. Section 23301 of the Revenue and Taxation Code is amended to read:

23301. Except for the purposes of amending the articles of incorporation to set forth a new name or filing an application for exempt status, the corporate powers, rights and privileges of a domestic taxpayer, may be suspended, and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited if any of the following conditions occur:

(a) If any tax, penalty or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 p.m. on the last day of the 12th month after the close of the income year; or

(b) If any tax, penalty or interest, or any portion thereof, due and payable upon notice and demand from the Franchise Tax Board, or due and payable under Section 25936, is not paid on or before 6 o'clock p.m. on the last day of the 11th month following the due date of said tax.

SEC. 5. Section 23571 of the Revenue and Taxation Code is amended to read:

23571. (a) Except for the purposes of amending the articles of incorporation to set forth a new name or filing an application for exempt status, the corporate powers, rights and privileges of a domestic taxpayer may be suspended and shall not be exercised for any purpose or in any manner in this state:

(1) If any tax, penalty or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 o'clock p.m. of the last day of the 12th month after the close of the income year; or

(2) If any tax, penalty or interest, or any portion thereof, other than jeopardy or fraud assessments, due and payable upon notice and demand from the Franchise Tax Board, is not paid on or before 6 o'clock p.m. on the last day of the 11th month following the due date of said tax; or

(b) Any taxpayer which has been suspended under subdivision (a), may be revived in the manner provided for by Sections 23305 and 23305a.

SEC. 5.3. It is the intent of the Legislature, if this bill and Assembly Bill 36 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 17054 of the Revenue

and Taxation Code, and this bill is chaptered after Assembly Bill 36, that Section 17054 of the Revenue and Taxation Code, as amended by Section 13 of Assembly Bill 36, be further amended on the effective date of this act in the form set forth in Section 2.5 of this act to incorporate the changes in Section 2 proposed by this bill. Therefore, if this bill and Assembly Bill 36 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 36 is chaptered before this bill and amends Section 17054, Section 2.5 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

SEC. 5.6. If this bill and Assembly Bill 36 are both chaptered and become effective on or before January 1, 1984, Sections 2.7 and 3 of this act shall become operative as follows:

(a) If this bill is chaptered after Assembly Bill 36, Section 2.7 of this act shall become operative on the effective date of this act and Section 3 of this act shall not become operative.

(b) If this bill is chaptered before Assembly Bill 36, Section 3 of this act shall become operative on the effective date of this act and shall cease to be operative on the effective date of Assembly Bill 36, at which time Section 2.7 of this act shall become operative.

SEC. 6. 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 or income 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 or income years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 644

An act to amend Section 99250 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 99250 of the Public Utilities Code is amended to read:

99250. (a) All charter bus services authorized to be performed by a public transportation system receiving funding under this chapter shall contribute financially to the reduction of deficits incurred in the operation of scheduled route service. In addition, the

charter bus service shall not interfere with regularly scheduled service to the public or compete unfairly with private operators where the private operators are willing and able to provide charter bus service.

(b) Except as provided in subdivision (d), charter bus service rates and minimums shall be established which are either of the following:

(1) At least equal to the average of the three lowest current rates charged by private charter bus carriers actually operating charters originating in the same service area of the public transportation system during the prior year.

(2) At least equal to the fully allocated cost of each charter operated. Fully allocated costs are those costs as approved by the federal Urban Mass Transportation Administrator pursuant to Section 604.18 of Title 49 of the Code of Federal Regulations. All terms and conditions, in addition to the base rate, shall be at least equal to the average of the three lowest current rates charged by private charter bus carriers actually operating a charter originating in the same service area of the public transportation system during the prior year.

(c) All charter bus service rates shall be reviewed and adjusted not less than semiannually to reflect variations in actual and assumed costs, as well as private charter bus carrier rates.

(d) If the operator of a public transportation system determines that there is a public need that cannot otherwise be met, the operator may provide charter bus services to charitable or public service organizations at direct cost, not to exceed ten thousand dollars ($10,000) or a total of 40 charter buses per year, whichever occurs first.

(e) This section does not apply to charter bus services which are incidental to the holding of the Olympic Games in Los Angeles during the period of May 1, 1984, to September 30, 1984, if the public transportation system establishes charter bus rates for those services which are sufficient to pay all fully allocated costs related to those services, which are at least equal to the average of the lowest rates charged by the three largest private charter party carriers operating similar service within Los Angeles County, and which contribute financially to the reduction of deficits incurred by the system in the operation of scheduled route service.

CHAPTER 645

An act to amend Section 38773.5 of the Government Code, and to amend Section 13610 of the Revenue and Taxation Code, relating to liens.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 38773.5 of the Government Code is amended to read:

38773.5. The legislative body may by ordinance establish a procedure for the abatement of a nuisance and make the cost of abatement of a nuisance upon a parcel of land a special assessment against that parcel. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection. Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation.

SEC. 2. Section 13610 of the Revenue and Taxation Code is amended to read:

13610. (a) If any personal representative fails to pay any tax, interest, or penalty imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Except as otherwise provided in subdivision (b), the lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) Notwithstanding subdivision (a) of Section 7172 of the Government Code, all of the following apply to a state tax lien created pursuant to subdivision (a):

(1) If the lien is not extinguished as in paragraph (2), (3), or (4), or otherwise released or discharged, it expires 10 years from the time a deficiency determination is issued pursuant to this part if, within that 10 years, no notice of the lien has been recorded or filed as provided in Section 7171 of the Government Code.

(2) If suit or a proceeding for collection of the tax has not been instituted within 5 years after the tax becomes due and payable, the lien ceases as to any bona fide purchaser, mortgagee, or lessee of, or beneficiary under a deed of trust on, the property subject to the lien.

(3) If property subject to the lien is sold, exchanged, or otherwise transferred pursuant to the Probate Code the lien ceases as to the

property and attaches to the proceeds or other consideration received.

(4) If property subject to the lien is mortgaged, hypothecated or leased pursuant to the Probate Code, the lien becomes subject to and subordinate to the rights and interests of the mortgagee, lessee, or other person so secured or created, and attaches to the proceeds of the mortgage, hypothecation, or lease.

CHAPTER 646

An act to add and repeal Section 6013.6 of the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. Section 6013.6 is added to the Business and Professions Code, to read:

6013.6. (a) Except as provided in subdivision (b), any attorney who is a full-time employee of any public agency and who serves as a member of the Board of Governors of the State Bar shall not suffer any loss of rights, promotions, salary increases, retirement benefits, tenure, or other job-related benefits, which the attorney would otherwise have been entitled to receive.

(b) Notwithstanding the provisions of subdivision (a), any public agency which employs an attorney who serves as a member of the Board of Governors of the State Bar may reduce the attorney's salary, but no other right or job-related benefit, pro rata to the extent that the attorney does not work the number of hours required by statute or written regulation to be worked by other employees of the same grade in any particular pay period and the attorney does not claim available leave time. The attorney shall be afforded the opportunity to perform job duties during other than regular working hours if such a work arrangement is practical and would not be a burden to the public agency.

(c) The Legislature finds that service as a member of the Board of Governors of the State Bar by an attorney employed by a public agency is in the public interest.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 647

An act relating to community college districts.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 1, 1983.]

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

SECTION 1. It is the intent of the Legislature to reduce disparities in revenue allocated in the 1982–83 fiscal year to community college districts pursuant to Article 3 (commencing with Section 84620) of Chapter 4.5 of Part 50 of the Education Code, and in any fiscal year thereafter.

CHAPTER 648

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 1, 1983. Filed with Secretary of State September 2, 1983.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authority.

Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.

Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated,

and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the

validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the Second Validating Act of 1983.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 649

An act to add Sections 2106 and 2107 to the Food and Agricultural Code, relating to agriculture.

[Became law without Governor's signature Filed with Secretary of State September 6, 1983.]

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

SECTION 1. Section 2106 is added to the Food and Agricultural Code, to read:

2106. On and after January 1, 1985, no person shall be eligible for the examination or shall be given or issued a certificate of qualification pursuant to Section 2101, 2102, or 2103 unless he or she possesses a bachelor's degree from an accredited four-year college with specialization in one or more appropriate disciplines in the agricultural or biological sciences as determined by the director. In determining whether or not a college is accredited, the director may rely on accreditation granted by a state or national association formed and operated for the purpose of determining accreditation. This section shall not apply to any person holding a valid certificate of qualification issued prior to January 1, 1985.

SEC. 2. Section 2107 is added to the Food and Agricultural Code, to read:

2107. The director shall publish and make available a registry of persons holding a certificate of qualification pursuant to Section 2101, 2102, or 2103 and Section 12202 of the Business and Professions Code.

CHAPTER 650

An act to amend Sections 7601 and 7603 of the Business and Professions Code, relating to the State Board of Funeral Directors and Embalmers.

[Became law without Governor's signature Filed with Secretary of State September 6, 1983]

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 the State Board of Funeral Directors and Embalmers which consists of five members, two of whom shall be licentiates of the board, and three of whom shall be public members.

SEC. 2. Section 7603 of the Business and Professions Code is amended to read:

7603. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors or until one year shall have elapsed

since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

Vacancies occurring shall be filled by appointment for the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint one of the public members and the two members qualified as provided in Section 7602. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 3. On the effective date of the amendments made to Section 7601 and 7602 of the Business and Professions Code by this act, those offices held by two of the licensed members and two of the public members of the State Board of Funeral Directors and Embalmers who have been in office for the longest period of time shall be terminated.

CHAPTER 651

An act to amend Sections 62801 and 62802 of the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983]

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

SECTION 1. Section 62801 of the Food and Agricultural Code is amended to read:

62801. Except as otherwise provided in Section 62803, or unless the parties agree otherwise, every contract for the sale of edible nuts shall be in writing and shall state the full purchase price in a definite sum which is to be paid in accordance with the terms of the contract and, if the price is to be paid upon the basis of units or measures, the contract shall specify or describe the unit and state the full unit price. Written contracts under this section shall state the method by which the price is to be determined.

SEC. 2. Section 62802 of the Food and Agricultural Code is amended to read:

62802. Any purchaser of edible nuts which are delivered pursuant to a contract entered into on or after the effective date of

the act amending this section in the 1983–84 Regular Session of the Legislature and which is in violation of this article is liable to the seller for the reasonable value of the nuts as of the time of delivery and, in addition, is liable to the seller for a penalty of twice the difference between any amounts paid to the seller and the reasonable value of the nuts at the time of delivery. Any purchaser of edible nuts which are delivered pursuant to a contract that was entered into prior to the effective date of the act amending this section in the 1983–84 session which is in violation of this article is liable to the seller for the reasonable value of the nuts as of the time of delivery and, in addition, is liable to the seller for a penalty of twice the reasonable value of the nuts.

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 conform the law relating to the purchase and sale of edible nuts to the custom and practice in the agricultural industry, it is necessary that this act take effect immediately.

CHAPTER 652

An act to amend Sections 41913 and 41916 of the Education Code, relating to schools.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983]

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

SECTION 1. Section 41913 of the Education Code is amended to read:

41913. Notwithstanding any other provision of law, the governing board of any school district maintaining secondary schools, may, subject to Sections 41913 to 41919, inclusive, enter into contracts with approved private driver training schools to provide to any or all of the eligible enrolled students of the district, the automobile driver training as provided pursuant to Section 51852. No such contract shall be valid unless approved by the governing board. The driver training provided under contract by an approved private driver training school shall be under the exclusive control and management of the governing board of the school district and shall comply with all rules and regulations of the State Board of Education relating to driver training offered by the public schools, except that a driver training instructor of the approved private driver training school shall not be required to possess any teaching credential or certification document of any kind except as required by the Driving School Department of the Department of Motor Vehicles. Nothing in this

section shall prohibit the governing board from entering into contracts with more than one approved private driver training school and apportioning students among such schools.

Upon approval of the contract, the governing board shall transmit a copy of the signed contract to the State Department of Education.

SEC. 2. Section 41916 of the Education Code is amended to read:

41916. Upon presentment to the governing board by the approved private driver training school written verification of the name, school, dates, and times of each automobile driver training instruction lesson and such other information required by the governing board, the approved private driver training school shall be paid the contract amount as determined pursuant to Section 41915.

CHAPTER 653

An act to amend Sections 5219, 5230, 5231, 5272, 5303, 5355, 5358, 5408, 5413, 5440, 5441, 5443, 5485, and 5486 of, to add Sections 5216.1, 5216.2, and 5366 to, to repeal Article 5 (commencing with Section 5320) of Chapter 2 of Division 3 of, and to repeal Sections 5211, 5356, 5409, 5411, 5420, 5421, and 5462 of, the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 5211 of the Business and Professions Code is repealed.

SEC. 2. Section 5216.1 is added to the Business and Professions Code, to read:

5216.1. "Lawfully erected" means, in reference to advertising displays, advertising displays which were erected in compliance with state laws and local ordinances in effect at the time of their erection or which were subsequently brought into full compliance with state laws and local ordinances, except that the term does not apply to any advertising display whose use is modified after erection in a manner which causes it to become illegal. There shall be a rebuttable presumption pursuant to Section 606 of the Evidence Code that an advertising display is lawfully erected if it has been in existence for a period of five years or longer without the owner having received written notice during that period from a governmental entity stating that the display was not lawfully erected.

SEC. 3. Section 5216.2 is added to the Business and Professions Code, to read:

5216.2. "Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic

in opposite directions is a main-traveled way. Main-traveled way does not include facilities such as frontage roads, ramps, auxiliary lanes, parking areas, or shoulders.

SEC. 4. Section 5219 of the Business and Professions Code is amended to read:

5219. "Person" includes natural person, firm, cooperative, partnership, association, and corporation.

SEC. 5. 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, if Section 5412 is complied with. No city, county, or city and county may allow an advertising display to be placed or maintained in violation of this chapter.

SEC. 6. Section 5231 of the Business and Professions Code is amended to read:

5231. The governing body of any city or city and county may enact ordinances requiring licenses or permits, or both, in addition to those imposed by this chapter, for the placing of advertising displays in view of any highway, including a highway included in the national system of interstate and defense highways or the federal-aid primary highway system, within its boundaries.

SEC. 7. Section 5272 of the Business and Professions Code is amended to read:

5272. With the exception of the provisions contained in Article 4 (commencing with Section 5300) and Sections 5400 to 5404, inclusive, nothing contained in this chapter applies to any advertising display used exclusively for any of the following purposes:

(a) To advertise the sale or lease of the property upon which the advertising display is placed.

(b) To designate the name of the owner or occupant of the premises or to identify the premises.

(c) To advertise the business conducted or services rendered or the goods produced or sold upon the property upon which the advertising display is placed if the display is upon the same side of the highway and within 1,000 feet of the point on the property or within 1,000 feet of the entrance to the site at which the business is conducted or services are rendered or goods are produced or sold.

SEC. 8. Section 5303 of the Business and Professions Code is amended to read:

5303. Every application for a license shall be made on a form to be furnished by the director. It shall state the full name of the applicant and the post office address of his fixed place of business and shall contain a certification that the applicant has obtained a copy of the provisions of this chapter and any regulations adopted thereunder and is aware of their contents.

The issuance of a license entitles the holder to engage in or carry

on the outdoor advertising business and to apply for permits during the term of the license.

SEC. 9. Article 5 (commencing with Section 5320) of Chapter 2 of Division 3 of the Business and Professions Code is repealed.

SEC. 10. Section 5355 of the Business and Professions Code is amended to read:

5355. An application for a permit to place a display shall contain a description of the display, including its material, size, and subject and the proposed manner of placing it.

SEC. 11. Section 5356 of the Business and Professions Code is repealed.

SEC. 12. Section 5358 of the Business and Professions Code is amended to read:

5358. When the application is in full compliance with this chapter and if the advertising display will not be in violation of any other state law, the director or his authorized agent shall, within 10 days after compliance and upon payment by the applicant of the fee provided by this chapter, issue a permit to place the advertising display for the remainder of the calendar year in which the permit is issued.

SEC. 13. Section 5366 is added to the Business and Professions Code, to read:

5366. The issuance of a permit pursuant to this chapter does not allow any person to erect an advertising display in violation of any ordinance of any city, county, or city and county.

SEC. 14. Section 5408 of the Business and Professions Code is amended to read:

5408. In addition to the advertising displays permitted by Section 5405 to be placed within 660 feet of the edge of the right-of-way of interstate or primary highways, advertising displays conforming to the following standards, and not in violation of any other provision of this chapter, may be placed in those locations if placed in business areas:

(a) Advertising displays shall not be placed which exceed 1,200 square feet in area with a maximum height of 25 feet and a maximum length of 60 feet, including border and trim, and excluding base or apron supports and other structural members. This subdivision shall apply to each facing of an advertising display. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire advertisement. Two advertising displays not exceeding 350 square feet each may be erected in a facing. Any advertising display lawfully in existence on August 1, 1967, which exceeds 1,200 square feet in area, and which is permitted by city or county ordinance, may be maintained in existence.

(b) Advertising displays shall not be placed which are so illuminated that they interfere with the effectiveness of, or obscure any official traffic sign, device, or signal; nor shall any advertising display include or be illuminated by flashing, intermittent, or moving lights (except that part necessary to give public service information

such as time, date, temperature, weather, or similar information); nor shall any advertising display cause beams or rays of light to be directed at the traveled ways if the light is of such intensity or brilliance as to cause glare or to impair the vision of any driver, or to interfere with any driver's operation of a motor vehicle.

(c) Advertising displays shall not be placed in such a manner as to obstruct, or otherwise physically interfere with, an official traffic sign, signal, or device or to obstruct, or physically interfere with, the vision of drivers in approaching, merging, or intersecting traffic.

(d) No advertising display shall be placed within 500 feet from another advertising display on the same side of any portion of an interstate highway or a primary highway which is a freeway. No advertising display shall be placed within 500 feet of an interchange, or an intersection at grade, or a safety roadside rest area on any portion of an interstate highway or a primary highway which is a freeway and if the interstate or primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed within 300 feet from another advertising display on the same side of any portion of a primary highway which is not a freeway if that portion of the primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed within 100 feet from another advertising display on the same side of any portion of a primary highway which is not a freeway if that portion of the primary highway is located inside the limits of an incorporated city or inside the limits of an urban area. However, this subdivision does not apply to advertising displays which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time. This subdivision shall not prevent the erection of double-faced, back-to-back, or V-type advertising display, with a maximum of two signs per facing, as permitted in subdivision (a). This subdivision does not apply to advertising displays permitted by Section 5405. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway. Any advertising display lawfully in existence on August 1, 1967, which does not conform to this subdivision but which is permitted by city or county ordinances may be maintained in existence. "Urban area," as used in this subdivision, shall be determined in accordance with Section 101 (a) of Title 23 of the United States Code.

SEC. 15. Section 5409 of the Business and Professions Code is repealed.

SEC. 16. Section 5411 of the Business and Professions Code is repealed.

SEC. 17. 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 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 negotiations, a civil proceeding may be instituted as set forth in Section 5414.

To facilitate the negotiations, the Department of Transportation shall prepare a valuation schedule for each of the various types of advertising displays based on all applicable data. The schedule shall be updated at least once every two years. The schedule shall be made available to any public entity requesting a copy.

SEC. 18. Section 5420 of the Business and Professions Code is repealed.

SEC. 19. Section 5421 of the Business and Professions Code is repealed.

SEC. 20. Section 5440 of the Business and Professions Code is amended to read:

5440. Except as provided in Sections 5441 and 5442, no advertising display shall be placed or maintained on property adjoining a section of a freeway which has been landscaped if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

SEC. 21. Section 5441 of the Business and Professions Code is amended to read:

5441. Any advertising display which is now, or hereafter becomes, in violation of Section 5440 shall be subject to removal three years from the date the freeway has been declared a landscaped freeway by the director or the director's designee and the character of the freeway has been changed from a freeway to a landscaped freeway.

SEC. 22. Section 5443 of the Business and Professions Code is amended to read:

5443. Nothing in this article shall prohibit (a) any county from designating the districts or zones in which advertising displays may be placed or prohibited as part of a county land use or zoning ordinance, or (b) any governmental entity from entering into a relocation agreement pursuant to Section 5412 if the relocated display would not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code or an increase in the number of displays within the jurisdiction of a governmental entity which does not conform to the provisions of this article.

SEC. 23. Section 5462 of the Business and Professions Code is repealed.

SEC. 24. Section 5485 of the Business and Professions Code is amended to read:

5485. (a) The permit fee for each advertising sign is fifty cents ($0.50) for an original permit and for each annual renewal thereof, except where the applicant has placed or maintained the sign

without a valid, unrevoked, and unexpired permit therefor, the fee for any issuance of the first permit thereafter is one dollar and fifty cents ($1.50), one dollar ($1) of which is the penalty.

(b) The permit fee for an advertising structure for the original permit and for each annual renewal thereof is ten dollars ($10), except where the applicant has placed or maintained the structure without a valid, unrevoked, and unexpired permit therefor, the fee for any issuance of the first permit thereafter is twenty dollars ($20), ten dollars ($10) of which is the penalty.

SEC. 25. Section 5486 of the Business and Professions Code is amended to read:

5486. In addition to the fees set forth in Section 5485, no application for an original permit to place an advertising structure shall be accepted by the department unless it is also accompanied by an application fee of thirty dollars ($30). The application fee shall be retained by the department whether or not a permit is issued.

An applicant may request a preliminary determination as to whether a proposed structure and location would be legally eligible for a state permit upon submission of a fee of thirty dollars ($30), which is in addition to the thirty-dollar ($30) fee required at the time the application for an original permit is submitted.

CHAPTER 654

An act to amend Sections 44683, 87463, and 90122 of the Education Code, and to amend Section 219 of Chapter 143 of the Statutes of 1983, relating to education.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 44683 of the Education Code, as amended by Section 36 of Chapter 498 of the Statutes of 1983 is amended to read:

44683. (a) The three-year plan developed pursuant to paragraph (1) of subdivision (b) of Section 44682 shall address, but need not be limited to, objectives identified pursuant to Sections 44670.4, 52014, and 52015, and the capacity of site and central district administrators to provide leadership necessary to do the following:

(1) Improve instructional, management, human development, and counseling skills.

(2) Ensure that curricula, instruction, and 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.

(3) Develop curricula and instructional materials in a wide variety of areas such as arts and humanities and physical, natural, and social sciences.

(4) Facilitate collaboration among the school staff, and among the staff and members of the school community, in planning, implementing, and evaluating the school program.

(5) Improve the school and classroom environment, including relationships between and among pupils, school personnel, and community members, including parents.

(6) Make available followup activities to assist participating individuals in using newly acquired skills on the job.

(b) Each three-year plan shall describe the following:

(1) General staff development objectives and steps necessary to achieve the objectives in subdivision (a), including intended outcomes.

(2) A proposed budget.

(3) Procedures for ongoing evaluation and modification of training activities, including evaluation on a continuing basis by participating administrators and outside personnel as necessary.

(c) Administrator training and evaluation programs shall be designed and implemented under the direction of participating school and district administrators, including the district administrators or administrators responsible for supervision of curriculum and instruction, and in cooperation with teacher training institutions. The programs shall allow for diversity in development activities, including, but not limited to, small groups, self-directed learning, and systematic observation during visits to other schools.

The district administrator or administrators responsible for curriculum and instruction, or other central district administrators shall be included as active participants in one or more staff development activities pursuant to this article whenever appropriate.

SEC. 2. Section 87463 of the Education Code, as amended by Section 86 of Chapter 143 of the Statutes of 1983, is amended to read:

87463. Any employee in a position requiring certification qualifications of a community college district who instructs in a four-year state institution of higher education maintained on the campus of the community college pursuant to contracts entered into between the Trustees of the California State University and the district, shall, without regard to subject or grade taught, whether of community college level or higher, acquire and retain all rights to employment in the district the same as though the employee were teaching exclusively in a community college of the district. However, nothing in this section shall be construed to prevent the employee from resigning from employment in the district pursuant to the provisions of Section 87730.

SEC. 3. Section 90122 of the Education Code is amended to read:

90122. Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to this chapter, except that

it may be done by day's labor under the direction of the trustees, by contract upon informal bids, or by a combination thereof:

(a) When the trustees determine that an emergency exists due to an act of God, earthquake, flood, storm, fire, landslide, public disturbance, vandalism, or other unexpected cause, which results in damage to a state-owned building, state-owned real property or any improvements thereon, for work and remedial measures which are required immediately and which are necessary to protect the public health, safety, and welfare.

The trustees shall annually, on or before December 31, report to the Department of Finance and the Joint Legislative Budget Committee the instances in which an exemption from the bidding process was allowed due to "unexpected causes."

(b) At any time after the approval of plans, specifications and estimates of cost, if the trustees deem the advertising or award of a contract, the acceptance of any bid, or the acceptance of any further bids after the rejection of all submitted bids, is not in the best interests of the state.

SEC. 4. Section 219 of Chapter 143 of the Statutes of 1983 is amended to read:

Sec. 219. Any section of any act enacted by the Legislature during the 1983 calendar year, which takes effect on or before January 1, 1984, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

CHAPTER 655

An act to amend Section 10106 of the Education Code, relating to bilingual education.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 10106 of the Education Code is amended to read:

10106. The Commission on Teacher Credentialing shall serve as a clearinghouse for bilingual-cross-cultural teaching personnel. The commission shall compile and maintain a directory of bilingual-crosscultural teachers available to teach in bilingual education programs. The commission shall distribute the directory only when it determines that a need exists for the directory and that the directory would serve as a useful and necessary tool. The commission shall, upon request, assist school districts in the recruitment of these teachers.

CHAPTER 656

An act to amend Section 460 of the Insurance Code, relating to insurance.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 460 of the Insurance Code is amended to read:

460. On and after January 1, 1972, every printed form of an insurance contract, including every policy, endorsement, rider, or any amendment thereof issued in this state by any insurer or issued for delivery in this state by any insurer shall state an inception hour for coverage of 12:01 a.m. of the date upon which it is to be dated. However, the contract may provide that the inception time shall not be prior to the time applied for. Unless a specific provision of this code otherwise prescribes or permits, the hour prescribed shall be standard time at the residence within this state, or the principal place of business within this state, of the insured.

This section shall not prohibit an insurer, directly or through an agent, from issuing a binder, whether it be oral or typed by insertions in blanks in a printed form, specifying an inception or termination hour other than 12:01 a.m. on the date upon which the coverage is to commence, or end, as specified in the standard form or forms issued as the normal policy. Such binder shall not be subject to Section 382 nor have the technical meaning therein ascribed to "covering notes."

This section shall not prohibit an insurer from issuing any policy or contract on a normal printed form which contains a provision extending the period of coverage for either 12 hours preceding, or following, the effective hour otherwise required by this section.

This section shall not apply to:

(1) Life insurance as defined in Section 101 or such supplemental disability insurance as is defined in Sections 10271 and 10292.

(2) Marine insurance as defined in Section 103.

(3) Title insurance as defined in Section 104.

(4) Mortgage insurance as defined in Section 107.

(5) Mortgage guarantee insurance as defined in Section 119.

(6) Surety insurance, as defined in Section 105, or disability insurance, as defined in Section 106, unless, until, and to the extent following:

The commissioner, on or after the effective date of the amendment of this section at the 1969 Regular Session of the Legislature, from time to time, as to specific types, classes, or categories of such insurance, declares, by rules and regulations promulgated as provided by law, that this section shall apply. Such

rules or regulations shall provide that no policy or other form required by law to be approved by the commissioner need be refiled for approval if the only change from a previously approved form is the inclusion or change of the inception or termination hour.

CHAPTER 657

An act to add Section 71664 to the Water Code, relating to municipal water districts.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 71664 is added to the Water Code, to read:

71664. The Marin Municipal Water District may construct, maintain, and operate one or more plants for the generation of power from wind or solar radiation, and the transmission lines for the conveyance thereof, and in connection therewith shall have all the powers set forth in Sections 71662 and 71663 for the generation and transmission of hydroelectric power.

SEC. 2. The Marin Municipal Water District has a potential source of power from wind or solar radiation. This potential source of power is not common to other municipal water districts. The Legislature therefore finds and declares that a special law is necessary with respect to the Marin Municipal Water District, that the provisions of Section 1 of this act are needed to meet the special circumstances within the district, and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 658

An act to amend Sections 1504, 1716, 3707, 7191, and 11675 of, and to repeal Sections 22057, 24057, and 26057 of the Financial Code, relating to financial institutions.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 1504 of the Financial Code is amended to read:

1504. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of

interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, any state bank or national bank whose principal place of business is in the State of California, which is authorized to transact a trust business, or any trust company authorized to engage in the trust business, when the bank or company is acting in its fiduciary capacity.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

This section shall not exempt a trust company or a bank authorized to transact a trust business or a subsidiary thereof from complying with all other laws and regulations governing the business in which such a company or bank is engaged.

SEC. 2. Section 1716 of the Financial Code is amended to read:

1716. Any foreign (other nation) bank which, at the time it makes a loan or forbearance or executes a contract therefor, has assets equal to at least one hundred million dollars ($100,000,000), is licensed to maintain an office in California, is licensed or otherwise authorized by another state of the United States to maintain an agency or branch office in that state, or which maintains a federal agency or federal branch in any state of the United States and any foreign (other state) bank 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.

This section shall not exempt a foreign (other nation) bank or a foreign (other state) bank or a subsidiary thereof from complying with all other laws and regulations governing the business in which such a bank or subsidiary is engaged.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

SEC. 3. Section 3707 of the Financial Code is amended to read:

3707. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of or arranged by, a bank holding company or a subsidiary of a bank holding company which is not a bank. As used in this section, the terms "bank holding company" and "subsidiary" mean a bank holding company or subsidiary as defined in Chapter 17 (commencing with Section 1841) of Title 12 of the United States Code.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution. This section does not exempt a bank holding company or a subsidiary of a bank holding company from complying with all other applicable provisions of law regulating the business of these companies.

This section does not exempt a bank holding company or a subsidiary thereof from complying with all other laws or regulations

governing the business in which the bank holding company or subsidiary is engaged.

SEC. 4. Section 7191 of the Financial Code is amended to read:

7191. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, a state or federal savings and loan association which is authorized to exercise trust powers when the association is acting in its fiduciary capacity.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

This section does not exempt a federal or state savings and loan association or a subsidiary thereof, which is authorized to exercise trust powers, from complying with all other laws and regulations governing the business in which the company or association is engaged.

SEC. 5. Section 11675 of the Financial Code is amended to read:

11675. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, an entity that is a savings and loan holding company, a subsidiary of a savings and loan holding company that is not a savings and loan association, or a service corporation which is a subsidiary of a savings and loan association or a federal savings and loan association. As used in this section, the terms "savings and loan holding company" and "subsidiary," mean a savings and loan holding company or a subsidiary, as defined in Section 408 of the National Housing Act (12 U.S.C. Sec. 1730a(a)(1)), as amended, and the term "service corporation" means a service corporation described in Section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. Sec. 1464), as amended, or Section 6702.1.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution. This section does not exempt a savings and loan holding company, a subsidiary of a savings and loan holding company, or a service corporation which is a subsidiary of a savings and loan association or a federal savings and loan association from complying with all other applicable provisions of law regulating the business of these companies.

This section shall not exempt a savings and loan holding company, a subsidiary of a savings and loan holding company that is not a savings and loan association, or a service corporation which is a subsidiary of a savings and loan association or a federal savings and loan association from complying with all other laws and regulations governing the business in which the savings and loan holding company or subsidiary or service corporation is engaged.

SEC. 6. Section 22057 of the Financial Code is repealed.

SEC. 7. Section 24057 of the Financial Code is repealed.

SEC. 8. Section 26057 of the Financial Code is repealed.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 659

An act to amend Section 1198.3 of the Labor Code, relating to working hours.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. 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 or her 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 or she 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, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

CHAPTER 660

An act to amend Sections 12000, 12002, 12004, 12005, 12100, 12103, 12200, 12300.2, 12301, 12312, and 12327 of, and to repeal Section 12101 of, the Financial Code, relating to commercial transactions.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 12000 of the Financial Code is amended to read:

12000. This division is known and may be cited as the Check Sellers, Bill Payers and Proraters Law.

SEC. 2. Section 12002 of the Financial Code is amended to read:

12002. A check seller is a person: (a) who, for compensation, engages, in whole or in part, in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose, or receiving money as agent of an obligor for the purpose of paying to a person other than the check seller bills, invoices, or accounts of such obligor, or (b) who, without direct compensation and not as an authorized agent for a utility company, accepts money for the purpose of forwarding it to others in payment of utility bills.

SEC. 3. Section 12004 of the Financial Code is amended to read:

12004. "Licensee" means any individual or corporation licensed by the commissioner to engage in the business of a business agent, and any corporation licensed by the commissioner to engage in the business of selling checks, drafts or money orders, or of receiving money as agent of an obligor for the purpose of paying bills, invoices or accounts of such obligor or to accept money in payment of utility bills except as an authorized agent for a utility company pursuant to the provisions of this division.

SEC. 4. Section 12005 of the Financial Code is amended to read:

12005. "Mobile unit" means a vehicle or other movable means from which the business of selling checks, drafts, or money orders is conducted.

SEC. 5. Section 12100 of the Financial Code is amended to read:

12100. The provisions of this division do not apply to any of the following:

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 (commencing with Section 17000), consumer finance lenders subject to Division 10 (commencing with Section 24000), or commercial finance lenders subject to Division 11 (commencing with Section 26000).

(b) (1) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 or any agent of such person when selling any travelers check (as defined in Section 1852) which is issued by such person.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) or any agent of the person, when selling any payment instrument (as defined in Section 33059) which is issued by the person.

(c) The services of a person licensed to practice law in this state, when the person renders services in the course of his or her practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, these fees and disbursements shall not be shared, directly or indirectly with the prorater or check seller.

(d) Any transaction in which money or other property is paid to a "joint control agent" for disbursal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or member-directed association whose principal function is that of servicing the community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6 of Division 2 of the Labor Code, when acting in any capacity for which he or she is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he or she is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when the person renders services in a course of his or her practice as a certified public accountant or a public accountant, and the fees and disbursements of the person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, these fees and disbursements shall not be shared, directly or indirectly, with the prorater or check seller.

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers' or employees' organizations, and related groups, if the principal functions of these organizations are: (1) consumer credit education; (2) counseling on consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which

a charge for administrative services only may be made of 6.5 percent of the money disbursed monthly, or twenty dollars ($20) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt these organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

(k) Any person licensed under Chapter 14 (commencing with Section 1800) of Division 1 or any agent of such person, when selling any check or draft which is drawn by the person and which is of the type described in subdivision (b) of Section 1800.5.

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750) of Chapter 14, of Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check.

(m) Any transaction of the type described in Section 1854.1.

SEC. 6. Section 12101 of the Financial Code is repealed.

SEC. 7. Section 12103 of the Financial Code is amended to read:

12103. Whenever in the opinion of the commissioner any person is engaged in business as a check seller as defined in this division without a license from the commissioner, or any licensee is violating any provision of this division, the commissioner may order the person or licensee to desist and to refrain from engaging in such business or further violating this division. If, after such an order is made, a request for a hearing is filed in writing and no hearing is held within 30 days thereafter, the order shall be deemed to have been rescinded.

SEC. 8. Section 12200 of the Financial Code is amended to read:

12200. No person shall engage in the business, for compensation, of selling checks, drafts, money orders, or other commercial paper serving the same purpose, or of receiving money as agent of an obligor for the purpose of paying bills, invoices, or accounts of such obligor, or acting as a prorater, nor shall any person, without direct compensation and not as an authorized agent for a utility company, accept money for the purpose of forwarding it to others in payment of utility bills, without first obtaining a license from the commissioner.

SEC. 9. Section 12300.2 of the Financial Code is amended to read:

12300.2. Every person engaging in the business of a check seller shall conduct the business under his or her true name unless he or she has complied with Chapter 5 (commencing with Section 17900)

of Part 3 of Division 7 of the Business and Professions Code.

SEC. 10. Section 12301 of the Financial Code is amended to read:

12301. A licensee may establish branch offices or agencies if it is qualified under the provisions of Section 12205 and if it expressly assumes responsibility for the acts of any person selling checks, drafts, or money orders for the licensee or accepting money in its name or on its behalf at such place of business. There shall be posted in a prominent place in each branch office or agency a sign stating that the place of business is a branch office or agency of the licensee. The licensee is responsible for the acts of any person selling checks, drafts, or money orders or accepting money in its name or on its behalf.

SEC. 11. Section 12312 of the Financial Code is amended to read:

12312. An agreement between one licensed to engage in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose, and one undertaking to act in that business as an agent of the licensee, shall be in writing.

Such a licensee shall not pay such an agent any compensation as consideration for becoming an agent, other than that specified in their written agency agreement, in any manner, directly or indirectly, or by any method, practice or device whatsoever.

The commissioner may order any licensee to desist from any conduct which the commissioner shall find to be a violation of the foregoing provisions of this section.

SEC. 12. Section 12327 of the Financial Code is amended to read:

12327. Nothing in this division shall be deemed to authorize the performance, directly or indirectly, of an act or acts constituting the practice of law by a prorater, business agent, check seller, or by any person, firm, corporation or organization described, or engaging in a transaction specified in subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 12100.

Without limiting the generality of the foregoing and other applicable laws, the following act or acts, when done by the owner, manager or employee of a prorater, in connection with a prorating transaction, shall be deemed to constitute the unlawful practice of law:

(a) Preparation, advising or signing of a release of attachment or garnishment, stipulation, affidavit for exemption, compromise agreement or other legal or court document;

(b) The furnishing of legal advice or performance of legal services of any kind.

No prorater (including an owner, manager or employee of a prorater) shall (1) represent that he or she is authorized or competent to furnish legal advice or perform legal services; (2) assume authority on behalf of creditors or a debtor or accept a power of attorney authorizing it to employ or terminate the services of an attorney or to arrange the terms of or compensate for such services; (3) communicate with the debtor or creditor or any other person in the name of an attorney or upon the stationery of an

attorney or prepare any form or instrument which only attorneys are authorized to prepare.

CHAPTER 661

An act to amend Sections 32000.5, 34000, 34002, 34019, 34021, 34022, 34023, 34024, 34042, 34060, 34060.5, 34061, 34063, 34101, and 34102 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 32000.5 of the Vehicle Code is amended to read:

32000.5. (a) Every motor carrier who directs the transportation of an explosive and, on and after July 1, 1982, any motor carrier who directs the transportation of a hazardous material, who is required to display placards pursuant to Section 27903, and every motor carrier who transports for a fee in excess of 500 pounds of hazardous materials of the type requiring placards pursuant to Section 27903, shall be licensed in accordance with the provisions of this code, unless specifically exempted by this code or regulations adopted pursuant to this code. This license shall be available for examination and shall be displayed in accordance with the regulations adopted by the commissioner.

(b) This division does not apply to any person hauling only hazardous waste, as defined in Section 25115 or 25117 of the Health and Safety Code, and who is registered pursuant to subdivision (a) of Section 25163 of the Health and Safety Code or who is exempt from that registration pursuant to subdivision (b) of that section.

(c) This division does not apply to implements of husbandry, as defined in Section 36000.

(d) This division does not apply to the hauling of class B explosives classified as special fireworks or to class C explosives classified as common fireworks by the United States Department of Transportation if those fireworks are transported by a motor carrier under the authority of, and in conformance with, a license issued to the motor carrier by the State Fire Marshal pursuant to Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code. In that case, a copy of the license shall be carried in the vehicle and presented to any peace officer upon request.

SEC. 2. Section 34000 of the Vehicle Code is amended to read:

34000. It is the intent of the Legislature to provide additional protection to the public and reduce the risk of possible hazards in the highway transportation of flammable and combustible liquids in tank vehicles. It is further the intent of the Legislature that the

Department of the California Highway Patrol shall inspect and certify cargo tanks, compile the necessary data, and administer the program in cooperation with the State Air Resources Board.

SEC. 3. Section 34002 of the Vehicle Code is amended to read:

34002. (a) It is the legislative intention that the regulations adopted by the commissioner pursuant to this division shall apply uniformly throughout the State of California, and 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 this division.

(b) No other state agency, city, city and county, county, or other public agency of this state, including, but not limited to, a chartered city, city and county, or county, shall enforce any provisions regarding the design and construction of any cargo tank subject to this division, regardless of the location of the cargo tank, or the area of operation of the cargo tank, within this state.

SEC. 4. Section 34019 of the Vehicle Code is amended to read:

34019. The commissioner shall adopt reasonable regulations with respect to the design and construction of cargo tanks and fire auxilary equipment.

SEC. 5. Section 34021 of the Vehicle Code is amended to read:

34021. The regulations adopted by the commissioner shall make reasonable allowances for cargo tanks in existence when the regulations become effective. No allowance shall, however, be made for any cargo tank which because of its design or construction constitutes a distinct hazard to life or property.

SEC. 6. Section 34022 of the Vehicle Code is amended to read:

34022. In adopting the regulations, the commissioner shall consider, as evidence of generally accepted safety standards, the publications of the National Fire Protection Association and the United States Department of Transportation.

SEC. 7. Section 34023 of the Vehicle Code is amended to read:

34023. To assist in the adoption or revision of the regulations dealing with the design and construction of cargo tanks and fire safety devices, the commissioner shall appoint an advisory committee of 11, which shall consist of the commissioner or a representative of the commissioner, who shall serve as chairman, a representative of the State Fire Marshal, and representatives of the fire services, associations of proprietary carriers, for-hire carriers, petroleum companies, and from industry, labor, and other governmental agencies, as may be determined and selected, from time to time, by the commissioner. The members of the advisory committee shall serve at the pleasure of the commissioner. They shall receive no compensation for their services.

SEC. 8. Section 34024 of the Vehicle Code is amended to read:

34024. The regulations adopted by the commissioner pursuant to this division shall be adopted, amended, and repealed in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of

Division 3 of Title 2 of the Government Code.

SEC. 9. Section 34042 of the Vehicle Code is amended to read:

34042. The application may be denied for any of the following reasons:

(a) Failure to pay required fees.

(b) Misrepresentation in the application.

(c) Failure of the cargo tank to comply with the regulations of the commissioner adopted pursuant to Section 34019 or 34020.

(d) Failure or refusal of the applicant to make the cargo tank available for inspection by a duly authorized employee of the department upon reasonable notice.

SEC. 10. Section 34060 of the Vehicle Code is amended to read:

34060. The commissioner shall provide for the establishment, operation, and enforcement of an inspection service for cargo tanks, and shall designate the duly authorized employees of the department who may inspect cargo tanks to determine whether or not the cargo tanks are designed, constructed, and maintained in accordance with the regulations adopted by the commissioner pursuant to Sections 34019 and 34020, and otherwise comply with this division.

SEC. 11. Section 34060.5 of the Vehicle Code is amended to read:

34060.5. Any required pressure, vacuum, or hydrostatic testing of a cargo tank shall be performed, or be caused to be performed, by the carrier, operator, or consultant who shall certify in writing that the cargo tank meets the requirements of the United States Department of Transportation, the State Air Resources Board, and the commissioner. An authorized representative of the department may observe or require these tests. Records of these certifications shall be maintained at the carrier's place of business.

SEC. 12. Section 34061 of the Vehicle Code is amended to read:

34061. 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 registration of a cargo tank 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 the cargo tank to comply with the regulations of the commissioner adopted pursuant to this division.

(c) Failure or refusal of the registrant to permit inspection of the cargo tank or make available the cargo tank for inspection by a duly authorized employee of the department upon reasonable notice.

(d) Violation of any provisions of this division.

SEC. 13. Section 34063 of the Vehicle Code is amended to read:

34063. If, upon inspection of any currently registered cargo tank, a cargo tank is found to be not in compliance with the regulations of the commissioner or the United States Department of Transportation or any provision of this division, the inspector may immediately remove the certificate of compliance from the cargo

tank. At the time of the removal, the inspector shall deliver to the registrant or his or her representative a written notice specifying in what particulars the cargo tank does not so comply. Within 20 days from the date of the removal of the certificate of compliance and the written notice, a statement of suspension or revocation of the cargo tank registration shall be filed. If within that 20-day period the registrant notifies the department and the department is satisfied that the cargo tank has been brought into compliance, the certificate of compliance may be reinstated by issuance of a duplicate thereof. In such event, the statement of suspension or revocation may, but need not, be filed.

SEC. 14. Section 34101 of the Vehicle Code is amended to read:

34101. No tank vehicle shall be operated upon any highway in this state unless there is plainly affixed on the cargo tank of the tank vehicle a valid certificate of compliance label for the cargo tank, as provided in this division and the regulations of the commissioner. 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. 15. Section 34102 of the Vehicle Code is amended to read:

34102. A violation of any provision of this division or of any regulation adopted by the commissioner pursuant thereto is a misdemeanor. No person shall operate a tank vehicle upon a highway in violation of any provision of this division or of any regulation adopted by the commissioner pursuant thereto.

CHAPTER 662

An act to amend Section 68 of the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1983 Filed with Secretary of State September 7, 1983.]

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

SECTION 1. The Legislature finds and declares that it is the intent of the people in enacting subdivision (d) of Section 2 of Article XIII A of the California Constitution to permit taxpayers to use the base year value of the property from which the taxpayer was displaced as the base year value of the property acquired, in cases where the full cash value of the property acquired is no more than 20 percent greater than the value received by the taxpayer for the property from which the taxpayer was displaced.

In cases where the full cash value of the property acquired is more than 20 percent greater than the value received by the taxpayer for the property from which the taxpayer was displaced, the Legislature

finds and declares that the intent of the provisions of subdivision (d) of Section 2 of Article XIII A is to permit taxpayers (1) to carry forward the base year value from the property displaced for the portion of the value of the acquired property which is not more than 20 percent greater than the sum received for the property from which the taxpayer was displaced, and (2) to add to the base year value the full cash value of the acquired property in excess of this amount. The Legislature finds this incremental value is appropriately added because this portion of the property is of greater utility than the property from which the taxpayer was displaced.

SEC. 2. Section 68 of the Revenue and Taxation Code is amended to read:

68. For purposes of Section 2 of Article XIII A of the Constitution, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from property in this state by eminent domain proceedings, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation.

The adjusted base year value of the property acquired shall be the lower of the fair market value of the property acquired or the value which is the sum of the following:

(a) The adjusted base year value of the property from which the person was displaced.

(b) The amount, if any, by which the full cash value of the property acquired exceeds 120 percent of the amount received by the person for the property from which the person was displaced.

The provisions of this section shall apply to eminent domain proceedings, acquisitions, or judgments of inverse condemnation after March 1, 1975, and shall affect only those assessments of that property which occur after June 8, 1982.

Persons acquiring replacement property between March 1, 1975, and January 1, 1983, shall request assessment under this section with the assessor on or before January 1, 1987. Persons acquiring replacement property on and after January 1, 1983, shall request assessment within four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse condemnation becomes final.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect

unless and until they are amended or repealed by a later enacted 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 for this act to take effect for the 1983–84 assessment year and avoid continuous changes of property tax values, it is necessary for this act to take effect immediately.

CHAPTER 663

An act to amend Section 19991.1 of the Government Code, relating to state employees.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 19991.1 of the Government Code is amended to read:

19991.1. (a) Subject to department rule an appointing power may grant a leave of absence without pay, to any employee under his or her jurisdiction for a period not exceeding one year. An extension to an unpaid leave of absence may be granted by the appointing power upon the prior approval of the department. A leave so granted assures to the employee the right to return to his or her former position upon expiration of the leave.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

CHAPTER 664

An act to add Article 9 (commencing with Section 10511) to Chapter 3 of Part 2 of Division 5 of the Food and Agricultural Code, relating to cattle.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Article 9 (commencing with Section 10511) is added to Chapter 3 of Part 2 of Division 5 of the Food and Agricultural Code, to read:

Article 9. Movement of Animals

10511. "Beef breeds" means breeds of cattle which are grown for meat production purposes, as determined by the director.

10512. Female cattle of the beef breeds, which are over 12 months of age, born on or after July 1, 1983, and sold within the state, shall bear evidence of official calfhood brucellosis vaccination by the presence of an official tattoo visible in the right ear, or by any other evidence of vaccination or identification as the department may, by regulation, specify. Official calfhood brucellosis vaccination shall not be required for change of ownership in the following cases:

(a) Spayed heifers identified as the department may specify.

(b) Female cattle of the beef breeds moving directly to a slaughter establishment.

(c) Unvaccinated female cattle of the beef breeds sold to slaughter through approved saleyards.

(d) Unvaccinated female cattle of the beef breeds moving to approved feedlots for a period of time before going to slaughter. These animals shall be moved directly to a slaughter establishment from the approved feedlot.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 665

An act to amend Section 15432 of the Government Code, relating to health facilities.

[Approved by Governor September 6, 1983. Filed with Secretary of State September 7, 1983.]

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall

have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital which 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 which 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 which 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 which 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 which 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" which 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" shall include a clinic which is described in subdivision (l) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive

service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 2. Section 15432 of the Government Code, as amended by Assembly Bill No. 2025 of the 1983–84 Regular Session of the Legislature, 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 which 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 which 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 which 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 which 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 which 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" which 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. However, 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).

(9) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

"Health facility" shall include a clinic which is described in subdivision (l) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a county, a district hospital, 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 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 which 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 which 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 which 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 which 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 which 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" which 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" shall include a clinic which is described in subdivision (l) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly

conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, 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. 4. Section 15432 of the Government Code, as amended by Assembly Bill No. 2025 of the 1983–84 Regular Session of the Legislature, 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 which 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 which 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 which 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 which 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 which 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" which 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. However, 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).

(9) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

"Health facility" shall include a clinic which is described in subdivision (l) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, 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. 5. (a) Section 2 of this bill incorporates amendments to Section 15432 of the Government Code proposed by both this bill and AB 2025. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, (2) each bill amends Section 15432 of the Government Code, (3) SB 464 is not

enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2025; in which case, Section 15432 of the Government Code, as amended by AB 2025, shall remain operative only until the operative date of this bill; at which time, Section 2 of this bill shall become operative, and Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 15432 of the Government Code proposed by both this bill and SB 464. It shall only become operative if (1) both bills are enacted and become effective January 1, 1984, (2) each bill amends Section 15432 of the Government Code, (3) AB 2025 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 464; in which case, Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 15432 of the Government Code proposed by this bill, AB 2025, and SB 464. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1984, (2) all three bills amend Section 15432 of the Government Code, and (3) this bill is enacted after AB 2025 and SB 464; in which case, Section 15432 of the Government Code, as amended by AB 2025, shall remain operative until the operative date of this bill; at which time, Section 4 of this bill shall become operative, and Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 666

An act to amend Sections 45134 and 88033 of, and to repeal Sections 44906, 87466, and 89509 of, the Education Code, to amend Sections 12942, 20983.5, and 31671.05 of, and to repeal Sections 7508, 20981, 20981.2, 20983.1, 20983.2, 20983.6, 20984, 20985, 20988, 31671, 31671.03, 31671.1, and 45346 of, the Government Code, and to amend Section 167 of the Military and Veterans Code, relating to employment.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. The Legislature of the State of California finds and declares that the use of chronological age as an indicator of ability to perform on the job and the practice of mandatory retirement from employment are obsolete and cruel practices. The downward trend toward involuntary retirement at ages from 55 years represents a highly undesirable development in the utilization of California's worker resources. In addition, this practice is now imposing serious stresses on our economy and in particular on pension systems and other income maintenance systems.

SEC. 2. Section 44906 of the Education Code is repealed.

SEC. 3. Section 45134 of the Education Code is amended to read:

45134. (a) Notwithstanding any other provisions of law, no minimum or maximum age limits shall be established for the employment or continuance in employment of persons a part of the classified service.

(b) Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule or policy, either written or unwritten, heretofore or hereafter adopted, shall prohibit the employment or continued employment, solely because of the age of any such person in any school employment who is otherwise qualified therefor.

(c) No person shall be employed in school employment while he is receiving a retirement allowance under any retirement system by reason of prior school employment.

(d) The provisions of subdivision (c) shall be inapplicable to persons who were employed in the classified service of any school district as of September 18, 1959, and who are still in the employ of the same district on the effective date of this subdivision, and the rights of such persons shall be fixed and determined as of September 18, 1959; and no such person shall be deprived of any right to any retirement allowance or eligibility for any such allowance to which he would have been entitled as of that date. Any such person who, by reason of any provision of law to the contrary, has been deprived of any right to retirement allowance or eligibility for such an allowance, shall, upon the filing of application therefor, be reinstated to such rights as he would have had had this subdivision been in effect on September 18, 1959.

(e) 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. 4. Section 87466 of the Education Code is repealed.

SEC. 5. Section 88033 of the Education Code is amended to read:

88033. (a) Notwithstanding any other provisions of law, no minimum or maximum age limits shall be established for the employment or continuance in employment of persons a part of the classified service.

(b) Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule or policy, either written or unwritten, heretofore or hereafter adopted, shall prohibit the employment or continued employment, solely because of the age of any such person in any school employment who is otherwise qualified therefor.

(c) No person shall be employed in school employment while he is receiving a retirement allowance under any retirement system by reason of prior school employment.

(d) The provisions of subdivision (c) shall be inapplicable to persons who were employed in the classified service of any community college district as of September 18, 1959, and who are still

in the employ of the same district on the effective date of this subdivision, and the rights of such persons shall be fixed and determined as of September 18, 1959; and no such person shall be deprived of any right to any retirement allowance or eligibility for any such allowance to which he would have been entitled as of that date. Any such person who, by reason of any provision of law to the contrary, has been deprived of any right to retirement allowance or eligibility for such an allowance, shall, upon the filing of application therefor, be reinstated to such rights as he would have had had this subdivision been in effect on September 18, 1959.

(e) 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. 6. Section 89509 of the Education Code is repealed.

SEC. 7. Section 7508 of the Government Code is repealed.

SEC. 8. Section 12942 of the Government Code is amended to read:

12942. Every employer in this state shall permit any employee who indicates in writing a desire in a reasonable time and can demonstrate the ability to do so, to continue his or her employment beyond any retirement date contained in any private pension or retirement plan.

This employment shall continue so long as the employee demonstrates his or her ability to perform the functions of the job adequately and the employer is satisfied with the quality of work performed.

This section shall not be construed to require any change in funding, benefit levels, or formulas of any existing retirement plan, or to require any employer to increase the employer's payments for the provision of insurance benefits contained in any existing employee benefit or insurance plan, by reason of the employee's continuation of employment beyond the retirement date, or to require any changes in any bona fide retirement or pension programs or existing collective-bargaining agreements during the life of the contract, or until January 1, 1980, whichever occurs first.

Any employee indicating this desire and continuing the employment shall give the employer written notice in reasonable time, of intent to retire or terminate when the retirement or termination occurs after the employee's retirement date.

Nothing in this section or Section 12941 shall be construed to prohibit any of the following:

(a) To prohibit an institution of higher education, as defined by Section 1201(a) of the Federal Higher Education Act of 1965, from imposing a retirement policy for tenured faculty members, provided that the institution has a policy permitting reemployment of these individuals on a year-to-year basis.

(b) To prohibit compulsory retirement of any employee who has attained 70 years of age and is a physician employed by a professional medical corporation, the articles or bylaws of which provide for

compulsory retirement.

(c) To prohibit compulsory retirement of any employee who has attained 65 years of age and who for the two-year period immediately before retirement was employed in a bona fide executive or a high policymaking position, if that employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings, or deferred compensation plan, or any combination of those plans, of the employer for the employee, which equals in the aggregate at least twenty seven thousand dollars ($27,000).

SEC. 9. Section 20981 of the Government Code is repealed.

SEC. 10. Section 20981.2 of the Government Code is repealed.

SEC. 11. Section 20983.1 of the Government Code is repealed.

SEC. 12. Section 20983.2 of the Government Code is repealed.

SEC. 13. Section 20983.5 of the Government Code is amended to read:

20983.5. Every state member, other than a patrol or state safety member, and who has attained age 70, and all such persons who are reinstated from retirement and who are over age 70 at the time of their reinstatement, or who are first employed after age 70, shall have the right to delay retirement and to continue in employment upon certification of the member's eligibility to continue in employment by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by the State Personnel Board, the Regents of the University of California, or the Trustees of the State Universities or Colleges with respect to employees under their respective jurisdictions. The rules and regulations shall also provide for an appeal in cases when eligibility is denied. The appeal shall be directly to the entity or its designated representative. Certificates of eligibility may be limited for a time period of one or more years, and may be renewed from time to time upon expiration.

"Eligibility," for purposes of this section, shall mean job performance of standard or above.

The board shall identify all members who are approaching age 70 and shall notify the member and his or her employer of the member's option to continue in employment under this section. Upon receipt of the initial certificate of eligibility by the board from the employer, a member shall be continued in membership and shall be entitled to all of the rights and subject to all of the liabilities arising from this membership, including the obligation to pay contributions and the right to receive additional service credit.

The board shall not process subsequent certificates of eligibility, and notwithstanding any other provisions of law, a member who continues in membership pursuant to this section shall thereafter be retired for service only upon his or her voluntary application for retirement, and the effective date of the retirement shall be the date following the last date for which salary is payable or any subsequent date specified by the member.

A member who continues or has continued in employment under

this section may thereafter retire with less than five years of service.

A member who attains age 67 prior to January 1, 1982, may retire with less than five years of service.

SEC. 14. Section 20983.6 of the Government Code is repealed.

SEC. 15. Section 20984 of the Government Code is repealed.

SEC. 16. Section 20985 of the Government Code is repealed.

SEC. 17. Section 20988 of the Government Code is repealed.

SEC. 18. Section 31671 of the Government Code is repealed.

SEC. 19. Section 31671.03 of the Government Code is repealed.

SEC. 20. Section 31671.05 of the Government Code is amended to read:

31671.05. A member who, on December 31, 1978, was a member of a retirement system under this chapter which imposed a mandatory retirement age less than age 70 applicable to that member may, notwithstanding the repeal of Section 31671 by the same act amending this section during the 1983 portion of the 1983–84 Regular Session of the Legislature and the repeal of Sections 31671.01 and 31671.02 by Chapter 385 of the Statutes of 1978, retire from that system upon reaching the mandatory retirement age in effect for that system on December 31, 1978.

This section shall not become operative in any county until the board of supervisors adopts a resolution making it operative in the county.

SEC. 21. Section 31671.1 of the Government Code is repealed.

SEC. 22. Section 45346 of the Government Code is repealed.

SEC. 23. Section 167 of the Military and Veterans Code is amended to read:

167. All officers, warrant officers, and enlisted men on active duty with the Office of the Adjutant General shall be appointed by the Governor, with consideration of the recommendation of the Adjutant General.

SEC. 24. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 667

An act to amend Section 1176.1 of, and to add Section 1194.6 to, the Insurance Code, relating to insurance.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 1176.1 of the Insurance Code is amended 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, (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 preexistng lien, or (C) is entitled under applicable law to receive notice of default, sale, and foreclosure of 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.

SEC. 2. Section 1194.6 is added to the Insurance Code, to read:

1194.6. (a) Excess funds investments may be made by an insurer in bonds, notes, or other evidences of indebtedness payable in United States dollars and issued by a corporation incorporated under the laws of an alien government provided all of the following conditions are met:

(1) All the stock of the corporation is owned directly or indirectly by a domestic corporation.

(2) Payment in full of any bond, note, or other evidence of indebtedness is guaranteed by the domestic corporation.

(3) Any bond, note, or other evidence of indebtedness is evaluated by the National Association of Insurance Commissioners as a bond which may be carried at amortized cost.

(b) "Domestic," as used in this section, means organized under the laws of any state, or of the United States or of the District of Columbia.

CHAPTER 668

An act to amend Sections 52, 4007, and 27217 of, and to amend and renumber Section 29410 of, the Elections Code, relating to elections.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 52 of the Elections Code is amended to read:

52. No person shall be considered a legally qualified candidate for any office or party nomination for a partisan office under the laws of this state unless that person has filed a declaration of candidacy or statement of write-in candidacy with the proper official for the particular election or primary, or is entitled to have his or her name placed on a general election ballot by reason of having been nominated at a primary election or having been selected to fill a vacancy on the general election ballot as provided in Section 6655.

This section shall not be construed to prevent a voter from writing in the name of any person for an office at a primary or general election.

It is the intent of the legislature, in enacting this section, to enable the Federal Communications Commission to determine who is a "legally qualified candidate" in this state for the purposes of administering the provisions of Section 315 of the Communications Act of 1934.

SEC. 2. Section 4007 of the Elections Code is amended to read:

4007. Each section shall have attached thereto the affidavit of the person soliciting the signatures. This affidavit shall be substantially in

the same form as set forth in Section 3519 except that the affidavit shall declare that the circulator is a voter of the city and shall state the voter's voting address at the time of the execution of the affidavit.

SEC. 3. Section 27217 of the Elections Code is amended to read:

27217. If the clerk finds the signatures on the petition to be sufficient, he or she shall submit his or her certificate as to the sufficiency of the petition to the governing body at its next regular meeting. The certificate shall contain:

(a) The name of the officer whose recall is sought.

(b) The title of his or her office.

(c) The number of signatures required by law.

(d) The total number of signatures on the petition.

(e) The number of valid signatures on the petition.

(f) The number of signatures which were disqualified.

SEC. 4. Section 29410 of the Elections Code is amended and renumbered to read:

11710. A copy of Section 84305 of the Government Code shall be provided by the clerk to each candidate or his or her agent at the time of filing the declaration of candidacy and to the proponents of a local initiative or referendum at the time of filing the petitions.

CHAPTER 669

An act to amend Sections 2052 and 2056 of the Penal Code, and to add Section 10103.5 to the Public Contract Code, relating to prisons and prisoners.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 2052 of the Penal Code is amended to read:

2052. (a) The department shall have power to contract for the supply of electricity, gas and water for said prisons, upon such terms as the department shall deem to be for the best interests of the state, or to manufacture gas or electricity, or furnish water itself, at its option. It shall also have power to erect and construct or cause to be erected and constructed, electrical apparatus or other illuminating works in its discretion with or without contracting therefor, on such terms as it may deem just. The department shall have full power to erect any building or structure deemed necessary by it, or to alter or improve the same, and to pay for the same from the fund appropriated for the use or support of the prisons, or from the earnings thereof, without advertising or contracting therefor.

(b) With respect to any facility under the jurisdiction of the Prison Industry Authority, the Prison Industry Authority shall have the same powers which are vested in the department pursuant to

subdivision (a).

SEC. 2. Section 2056 of the Penal Code is amended to read:

2056. If any of the shops or buildings in which convicts are employed require rebuilding or repair for any reason, they may be rebuilt or repaired immediately, under the direction of the Prison Industry Authority.

SEC. 3. Section 10103.5 is added to the Public Contract Code, to read:

10103.5. Work performed by prisoners pursuant to an order by the Director of the Department of Corrections or by the Prison Industry Authority is not subject to this part.

CHAPTER 670

An act to add Article 2.6 (commencing with Section 1227) to Chapter 1 of Part 2 of Division 2 of, the Water Code, relating to water.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983]

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

SECTION 1. Article 2.6 (commencing with Section 1227) is added to Chapter 1 of Part 2 of Division 2 of the Water Code, to read:

Article 2.6. Nonreserved Water Rights for Federal Uses

1227. The Legislature finds and declares that it is in the public interest to provide a priority of right to appropriate water for various beneficial water uses which were initiated by the United States, or its agencies, on reserved lands prior to July 3, 1978, and which uses are for secondary purposes, other than those for which the federal reservation was created, provided that the priority of right does not impair any existing water right.

1227.1. (a) To obtain the priority of right set forth in Section 1227, any agency of the United States shall submit to the board, on or before July 1, 1984, a statement for each water use initiated under claim of right by the United States on reserved lands for which beneficial use of water was initiated on or before July 3, 1978, concerning which water rights litigation was not a matter of record prior to July 3, 1978, and which use is for secondary purposes other than those for which the federal reservation was created.

(b) Each statement shall include, but not be limited to, all of the following:

(1) The name and address of the agency of the United States which maintains the federal water project.

(2) The name and address of the person who is responsible for the

day-to-day operations of the federal water project.

(3) The name of the stream or other source from which the water is being appropriated and the name of the next major stream or other body of water to which the source is tributary.

(4) The point of diversion and place of use.

(5) The purpose of the use.

(6) A general description of the area in which the water is used.

(7) The year in which the diversion was commenced or as near as is known.

(8) Any information tending to indicate the quantity of water used, as may be prescribed by the board.

(c) The board shall make available to any person upon request copies of statements filed pursuant to this section for federal water uses within a particular county. Any person may file a request for special notice, by county.

1227.2. (a) Subject to subdivisions (b) and (c), any use for which a statement is submitted to the board pursuant to Section 1227.1 has a priority for the appropriation of water as of the date of initial use of the water, except that all permits and licenses issued by the board on applications, including those filed by the department pursuant to Part 2 (commencing with Section 10500) of Division 6, filed prior to July 1, 1984, have priority over any water right claimed by the United States pursuant to this article. Any use for which a statement is required shall be subject to Article 3 (commencing with Section 11460) of Chapter 3 of Part 3 of Division 6, in a like manner as the Central Valley Project.

(b) The scope of any appropriative right recognized pursuant to this article, including terms and conditions judged necessary by the board to best develop, conserve, and utilize the appropriated water in the public interest, shall be determined when that scope is at issue in any of the following proceedings:

(1) A proceeding upon an application, permit, or license of another, pursuant to this part, where the United States is a protestant or interested party.

(2) A proceeding to determine all rights to water of a stream system pursuant to Chapter 3 (commencing with Section 2500) of Part 3.

(3) A general adjudication of water rights commenced in the courts of this state.

(4) A proceeding to determine whether the board should commence an action pursuant to Section 1052, whether the United States is a complainant or a respondent.

(5) A proceeding under Section 275 and rules of the board in implementation thereof, whether the United States is a complainant or a respondent.

(c) The board shall, following any determination pursuant to subdivision (b), issue evidence of the scope of the right so determined; provided, that in no event, either prior or subsequent to the determination, shall the right exceed the amount of water that

may be reasonably used without waste and under reasonable methods of use and diversion.

1227.3. This article does not apply to uses involving the appropriation of water by any person, including any agency of the United States, pursuant to the Federal Reclamation Law, as amended or supplemented, or any other federal statute which authorizes projects for the development of water for uses other than uses upon reserved federal lands.

1227.4. The board may, after following procedures set forth in Sections 1675 to 1675.2, inclusive, revoke any water right determined pursuant to this article upon a finding that the water has ceased to be used for a purpose for which the original development was intended.

CHAPTER 671

An act to amend Sections 39891 and 39900 of the Education Code, relating to school facilities.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 39891 of the Education Code is amended to read:

39891. The cafeteria fund shall be used only for such expenditures as are necessary for the operation of school cafeterias. However, when the governing board deems it necessary, it may make expenditures from the cafeteria fund for the lease or purchase of additional cafeteria equipment for the central food processing plant, and of vending machines and their installation and housing.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make expenditures from the cafeteria fund for the construction, alteration, or improvement of a central food processing plant, for the installation of additional cafeteria equipment for the central food processing plant, and for the lease or purchase of vehicles used primarily in connection with the central food processing plant.

SEC. 2. Section 39900 of the Education Code is amended to read:

39900. The cost of housing and equipping cafeterias is a charge against the funds of the school district. However, when the governing board of a school district deems it necessary, the governing board may make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds. If school district funds are expended for the

lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, the governing board may at any time within five years after the expenditure reimburse school district funds from cafeteria funds.

The governing board of a school district may by resolution make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the school district.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make the cost of the construction, alteration, or improvement of a central food processing plant and the installation of additional cafeteria equipment a charge against cafeteria funds. If district funds are expended for these purposes, the governing board also may at any time within five years after the expenditure reimburse district funds from cafeteria funds.

CHAPTER 672

An act relating to the transfer of real property belonging to the state to Ray Preston, and making an appropriation therefor.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. The Legislature recognizes that a unique situation exists which gives rise to the enactment of this act. Specifically, it is recognized that on February 13, 1947, Ray Preston, by grant deed, conveyed 1.89 acres to the Department of Forestry for the purpose of establishing the White Rock Fire Station. Due to state budgetary reductions, the White Rock Fire Station is currently closed. Accordingly, there exists a risk of that property being declared surplus state land, and thus subject to being sold by the Department of General Services. Because the 1.89 acres is situated in the middle of property owned by the Ray Preston family, it seems fitting that the acreage should be sold to Ray Preston at the current fair market value. Moreover, it is noted that Ray Preston has expressed a willingness to maintain the structures situated on the 1.89 acres and to work towards reacquisition of the station by the department when the budget allows that action.

SEC. 2. In the event that the real property known as the White Rock Fire Station is, pursuant to statute, declared surplus or excess land, the Director of General Services, with the approval of the State Public Works Board and the Director of the Department of Forestry,

is hereby authorized to sell for current market value and upon those terms, conditions, and with the reservations and exceptions as in his or her opinion may be for the best interest of the state, including the right to reacquire the property, 1.89 acres, being the White Rock Fire Station located in the County of Mariposa, about 15 miles from the City of Mariposa, to Ray Preston.

SEC. 3. The parcel addressed in this act shall be exempt from the provisions of Sections 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 4. Any cost or expense incurred in the disposition of the parcel may be reimbursed from the proceeds of the disposition.

SEC. 5. Subject to the provisions of Section 4, any moneys received from the disposition of the parcel shall be paid into the General Fund.

SEC. 6. 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.

CHAPTER 673

An act to add Section 1373.8 to the Health and Safety Code, and to add Sections 10176.7, 10177.8, and 11512.3 to, the Insurance Code, relating to insurance.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 1373.8 is added to the Health and Safety Code, to read:

1373.8. A health care service plan contract where the plan is licensed to do business in this state and the plan provides coverage of solely California residents but which may be written or issued for delivery outside of California and where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the contract from selecting those licensed persons in California to perform the services in California which are within the terms of the contract even though the licensee's are not licensed in the state where the contract is written or issued for delivery.

SEC. 2. Section 10176.7 is added to the Insurance Code, to read:

10176.7. Disability insurance where the insurer is licensed to do business in this state and which provides coverage of solely California residents but which may be written or issued for delivery outside of California where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the contract from selecting those licensees in California to perform the services in California which are within the terms of the contract even though the licensees are not licensed in the state where the contract is written or issued for delivery.

SEC. 3. Section 10177.8 is added to the Insurance Code, to read:

10177.8. A self-insured employee welfare benefit plan doing business in this state and which provides coverage of solely California residents but which may be written or issued for delivery outside of California where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the plan from selecting those licensees in California to perform the services in California which are within the terms of the contract even though the licensees are not licensed in the state where the contract is written or issued.

SEC. 4. Section 11512.3 is added to the Insurance Code, to read:

11512.3. A hospital service plan contract where the plan is licensed to do business in this state and which provides coverage solely of California residents but which may be written or issued for delivery outside of California where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the contract from selecting those licensees in California to perform the services in California which are within the terms of the contract even though

the licensees are not licensed in the state where the contract is written or issued for delivery.

CHAPTER 674

An act to add Section 33105.5 to the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 33105.5 is added to the Public Resources Code, to read:

33105.5. (a) For purposes of providing a recreational trail corridor, the zone shall also include hiking and equestrian trail connections and accessways generally following the Rim of the Valley Trail as identified in the Equestrian and Hiking Trails Guide of the City of Los Angeles.

(b) The executive director of the conservancy shall file with the Secretary of State a map specifically delineating a feasible recreational trail corridor as identified in subdivision (a) by July 1, 1984.

(c) The executive director of the conservancy shall submit the map prepared pursuant to subdivision (b) to the Assembly Committee on Water, Parks, and Wildlife and to the Senate Committee on Natural Resources at least 30 days prior to taking any action for the purposes of this section pursuant to Section 33203.

CHAPTER 675

An act to add Article 10 (commencing with Section 8110) to Chapter 1 of Part 3 of the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Article 10 (commencing with Section 8110) is added to Chapter 1 of Part 3 of the Fish and Game Code, to read:

Article 10. Far Offshore Fishing

8110. (a) The Legislature finds and declares that dramatic changes have very recently taken place in the methods and geographic areas of effort by California-based commercial fishermen.

(b) The Legislature further finds and declares that because the conditions which now exist could not be seen at the time of their inception, some existing regulations are now unreasonably restrictive. In some cases, existing statutes and regulations prohibit California fishermen from participating in or landing in California the primary product, or the incidental product, of their effort in the newly developed far offshore fisheries. This situation is detrimental to the interests of the fishermen, the fish processors, and the consumers of California.

8111. "Far offshore fishery" means a fishery that lies outside the United States 200-mile fishery conservation zone.

8112. Notwithstanding any other section of this code, fish taken in a far offshore fishery, which may be lawfully imported into this state from a foreign nation or from another state, may be landed in this state by persons operating a commercial fishing vessel licensed under Article 4 (commencing with Section 7880) who took the fish in the far offshore fishery.

8113. Documentary evidence of both a vessel's clearance by United States Customs for departure from the United States for the high seas and the declaration by the vessel's master to United States Customs upon reentry as to the location of the fish catch and that the location was beyond the United States 200-mile fishery conservation zone shall be accepted as prima facie evidence of compliance with Section 8112.

8114. It is unlawful for the operator of any vessel operating under authority of this article to fish in, or land fish from, any waters within the United States 200-mile fishery conservation zone during any trip for which the operator has received clearance by United States Customs for departure for the high seas.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 676

An act to add Article 6 (commencing with Section 36060) to Chapter 2 of Part 6 of Division 13 of the Water Code, relating to water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Article 6 (commencing with Section 36060) is added to Chapter 2 of Part 6 of Division 13 of the Water Code, to read:

Article 6. Refunding Bonds

36060. This article aplies only to the Irvine Ranch and Moulton-Niguel Water Districts. "District" as used in this article means the Irvine Ranch Water District, the Moulton-Niguel Water District, or both.

36061. A district may, when necessary or proper, issue additional bonds in the same manner as provided for the original issue for any one or more of the following purposes:

(a) To accomplish one or more of the purposes specified in Section 35954.

(b) To refund any issue of bonds previously made. Refunding bonds may be issued pursuant to Article 9 (commencing with Section 53550) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, without submitting the question of issuance of the refunding bonds to a vote of the qualified electors.

36062. A district may bring an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure or pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to validate the issuance of any or all of the remaining bonds which were authorized by the voters at any given election, if the district's board of directors has adopted a resolution authorizing the issuance of the remaining bonds of the authorization, inclusive of any refunding bonds that might be issued therefor under Section 36063, in such series and at such times as the board may, in its discretion, determine, and at the interest rates as may be authorized by law at the time of issuance, including, but not limited to, Article 8 (commencing with Section 53540) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code. The terms of a judgment obtained in a proceeding hereunder may include a ruling that the validation shall automatically incorporate any change made in the interest rate set forth in Article 8 (commencing with Section 53540) of Part 1 of Division 2 of Title 5 of the Government Code by a later-enacted

statute. Any action commenced under this section may be filed either in a superior court or in a district court of appeals.

36063. (a) Whenever the board of directors determines that prudent management of the fiscal affairs of the district so requires, it may refund by defeasing or calling for redemption any outstanding bonds, subject to all of the following:

(1) The last-maturing refunding bonds shall mature not later than the date on which the last-maturing bonds being refunded would have matured.

(2) Refunding bonds shall not be issued unless the total interest cost to maturity of the refunding bonds added to the principal amount of those refunding bonds will be less than the total interest cost to maturity of the bonds being refunded added to the principal amount of the bonds being refunded.

(3) The savings achieved through the refunding of bonds shall be used by the board of directors solely to reduce the assessments, charges, or both, which are fixed and collected for the payment of principal of and interest on the refunding bonds.

(b) The refunding bonds shall be issued according to Article 9 (commencing with Section 53550) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(c) When the originally issued bonds have been refunded, the refunding bonds shall thereafter take the place of, and be deemed for all purposes to be, the bonds corresponding to the portion of the authorization by the voters from which the refunded bonds were originally issued and shall be payable from the same funds as those refunded bonds. Following the refunding, the same portion of the corresponding voter authorization as was previously canceled by issuance of the refunded bonds shall remain canceled and shall be deemed to be the amount of indebtedness issued from the voter authorization representing the refunding bonds; provided, however, that refunding bonds issued under this section shall be used only for the purpose of reducing debt service costs on bonds issued from indebtedness approved by the voters prior to the effective date of Article XIII A of the Constitution or refunding bonds issued in place thereof under this section.

(d) Notwithstanding Section 53569 of the Government Code and Section 35996, if the board of directors determines that to do so would be consistent with prudent management of the district's fiscal affairs, the board may sell refunding bonds issued under this section at private sale without advertising for bids.

SEC. 2. The Legislature finds and declares that there are special financial circumstances unique to the Irvine Ranch and Moulton-Niguel Water Districts which make this special act necessary and that a general law cannot be made applicable.

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:

To permit the Irvine Ranch and Moulton-Niguel Water Districts to lower the interest rates on outstanding bonded indebtedness by refunding the bonds when interest rates decline, it is necessary to clarify their authority to issue refunding bonds and redeem the previously issued bonds. In order, therefore, to reduce the financial burden of debt service on ratepayers and taxpayers at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 677

An act to amend Sections 66499.35, 66499.36, and 66499.52 of the Government Code, relating to subdivisions.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 66499.35 of the Government Code is amended to read:

66499.35. (a) Any person owning real property or a vendee of such person pursuant to a contract of sale of such real property may request, and a local agency shall determine, whether such real property complies with the provisions of this division and of local ordinances enacted pursuant thereto. Upon making such a determination the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of this division and of local ordinances enacted pursuant thereto. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

(b) If a local agency determines that such real property does not comply with the provisions of this division or of local ordinances enacted pursuant thereto, it shall issue a certificate of compliance or a conditional certificate of compliance. A local agency may, as a condition to granting a certificate of compliance, impose such conditions as would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which had been established at such time by this division or local ordinance enacted pursuant thereto, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant thereto, and such person is the current owner of record of one or more of the parcels which were created as a result of the grant

in violation of the division or local ordinances enacted pursuant thereto, then the local agency may impose such conditions as would be applicable to a current division of the property. Upon making such a determination and establishing such conditions the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. Such certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of such conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with such conditions shall not be required until such time as a permit or other grant of approval for development of such property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property which has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, or official map shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

SEC. 2. Section 66499.36 of the Government Code is amended to read:

66499.36. Whenever a local agency has knowledge that real property has been divided in violation of the provisions of this division or of local ordinances enacted pursuant to this division, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation, describing the real property in detail, naming the owners thereof, and describing the violation, and stating that an opportunity will be given to the owner to present evidence. The notice shall specify a time, date, and place for a meeting at which the owner may present evidence to the legislative body or advisory agency why the notice should not be recorded.

The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the local agency of his or her objection to recording the notice of violation, the legislative body or advisory agency shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the local agency shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the

legislative body or advisory agency determines that the property has in fact been illegally divided, the legislative body or advisory agency shall record the notice of violation with the county recorder. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property. The county recorder shall index the names of the fee owners in the general index.

SEC. 3. Section 66499.52 of the Government Code is amended to read:

66499.52. (a) Whenever any city, town or subdivision of land is platted or divided into lots or blocks, and whenever any addition to any city, town or subdivision is laid out into lots or blocks for the purpose of sale or transfer, the city engineer or the county surveyor, under the direction and with the approval of the city council or board of supervisors, may make an official map of the city, town or subdivision, giving to each block on the map a number, and to each lot or subdivision in the block a separate number or letter, and giving names to such streets, avenues, lanes, courts, commons or parks, as may be delineated on the official map.

(b) In a city or county which has adopted the procedure prescribed herein, any surveyor or engineer, under the review of the city engineer or county surveyor, may prepare an official map to be filed for record pursuant to subdivisions (d) and (e) of Section 66499.35. The map shall be prepared in accordance with the map format specifications of subdivisions (a) to (f), inclusive, of Section 66434. Payment for the services of the city engineer or county surveyor, and any charges required by local ordinance to be paid for the cost of processing the official map by the city engineer or county surveyor, shall be the responsibility of the applicant. The official map shall include an engineer's or surveyor's certificate stating that the map was prepared pursuant to the provisions of this section, and an approval certificate of the city engineer or county surveyor.

CHAPTER 678

An act to amend Section 4119 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 4119 of the Welfare and Institutions Code is amended to read:

4119. The State Department of Mental Health shall investigate and examine all nonresident persons residing in any state hospital for the mentally disordered and shall cause these persons, when found

to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the states in which they have legal residence. The department may defer this action by reason of a patient's medical condition.

For the purpose of facilitating the prompt and humane return of such persons, the State Department of Mental Health may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of persons residing in any state hospital for the mentally disordered in one state whose legal residence is in the other, and it may in these reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state hospital for the mentally disordered of this state. When a resident is returned to this state pursuant to this chapter, he or she may be admitted as a voluntary patient to any institution of the department as designated by the Director of Mental Health. If he or she is mentally disordered and is a danger to himself or herself or others, or he or she is gravely disabled, he or she may be detained and given care and services in accordance with the provisions of Part 1 (commencing with Section 5000) of Division 5, or, if he or she is a person subject to judicial commitment, he or she may be committed in accordance with the law.

CHAPTER 679

An act to amend Section 66719 of the Government Code, relating to solid waste.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 66719 of the Government Code is amended to read:

66719. (a) Except as provided in subdivision (b), "solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.

(b) "Solid waste" does not include hazardous waste, as defined in Section 66714.8.

CHAPTER 680

An act to amend Sections 68062 and 69535 of, and to repeal Sections 68076 and 68077 of, the Education Code, relating to postsecondary education.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 68062 of the Education Code is amended to read:

68062. In determining the place of residence the following rules are to be observed:

(a) There can only be one residence.

(b) A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.

(c) A residence cannot be lost until another is gained.

(d) The residence can be changed only by the union of act and intent.

(e) A man or woman may establish his or her residence. A woman's residence shall not be derivative from that of her husband.

(f) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent his or her residence is that of the parent with whom he or she maintained his or her last place of abode, provided the minor may establish his or her residence when both parents are deceased and a legal guardian has not been appointed.

(g) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

(h) An alien, including an unmarried minor alien, may establish his or her residence, unless precluded by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) from establishing domicile in the United States.

(i) The residence of an unmarried minor alien shall be derived from his or her parents pursuant to the provisions of subdivisions (f) and (g).

SEC. 2. Section 69535 of the Education Code is amended to read:

69535. Cal Grant awards shall be based upon the financial need of the applicant, but for the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants. The level of financial need of each applicant shall be determined by the commission, taking into account the financial resources of the applicant and the applicant's family. All Cal Grant recipients shall be residents of

California, as determined by the commission pursuant to the provisions of Part 41 (commencing with Section 68000), and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission. Part-time students shall not be discriminated against in the award of Cal Grants, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. Cal Grants shall be awarded without regard to race, religion, creed, sex, or age. First-time Cal Grant recipients who are part-time students shall be eligible for a full-time renewal award. No applicant shall receive more than one type of Cal Grant award concurrently.

The Student Aid Commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his progress to a degree by attending summer terms, sessions, or quarters. The Student Aid Commission may provide by appropriate rules and regulations for such reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as it may deem proper.

The Student Aid Commission may establish Cal Grants in one hundred dollar ($100) increments.

SEC. 3. Section 68076 of the Education Code is repealed.

SEC. 4. Section 68077 of the Education Code is repealed.

CHAPTER 681

An act to amend Section 1776 of the Labor Code, relating to public works wages.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1993.]

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

SECTION 1. Section 1776 of the Labor Code is amended to read:

1776. (a) Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the contractor.

(c) Each contractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(d) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or performing the contract shall not be marked or obliterated.

(e) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(f) In the event of noncompliance with the requirements of this section, the contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the contractor must comply with this section. Should noncompliance still be evident after the 10-day period, the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

(g) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. These stipulations

shall fix the responsibility for compliance with this section on the prime contractor.

(h) The director shall adopt rules consistent with the California Public Records Act, (Ch. 3.5 (commencing with Sec. 6250), Div. 7, Title 1, Gov. C.) and the Information Practices Act of 1977, (Title 1.8 (commencing with Sec. 1798) Pt. 4, Div. 3, Civ. C.) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

CHAPTER 682

An act to amend Sections 50669, 50670, and 50740 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 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 50669 of the Health and Safety Code is amended to read:

50669. As used in Sections 50670 and 50671:

(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 30 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 households of very low and low income.

(b) "Rental housing development" means a residential structure or structures containing five or more rental dwelling units for the elderly or handicapped, 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 or a residential hotel for any low or very low income household. "Residential hotel" shall have the same meaning as used in paragraph (1) of subdivision (b) of Section 50519 but, for purposes of this subdivision, there shall be an additional requirement that a majority of the guestrooms in the hotel be residential hotel units. A

"residential hotel unit" means a room used or intended to be used as a primary residential unit by a person or persons, which is subject to the provisions of Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, but which does not have either a self-containing kitchen or bathroom, or both.

(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. 2. Section 50670 of the Health and Safety Code is amended to read:

50670. (a) The department shall establish a Special User Housing Rehabilitation Program 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 eligible 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 eligible 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 or local public entity, 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 8 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 eligible 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 30 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 eligible 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 eligible 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 on and after the effective date of the amendments to this section enacted by the Statutes of the 1983 Regular Session of the Legislature, and 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) Eligible 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. 3. 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. Notwithstanding Section 13340 of the Government Code, money in the fund is hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b), (c), and (d), shall be utilized for purposes of this chapter, including Section 50745.1, and for the purposes of Section 50775.5. 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) Money from the fund utilized by the agency for development costs which was repaid to the agency or disencumbered between June 30, 1982, and June 30, 1983, and any additional funds or interest which is available for encumbrance on June 30, 1983, shall be deposited in a separate account in the fund and utilized as follows:

(1) Eight million one hundred thousand dollars ($8,100,000) shall be utilized by the agency for activities authorized by Article 4.5 (commencing with Section 51180) of Chapter 5 of Part 3.

(2) Five hundred thousand dollars ($500,000) shall be transferred by the agency to the department for deposit in the Rural Community Facility Grant Fund, established pursuant to Section 6125, and utilized to carry out the program established by Chapter 11 (commencing with Section 6120) of Part 3 of Division 5, if Assembly Bill 1604 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Three million dollars ($3,000,000) shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of Section 50661, if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes

effective and operative on or before January 1, 1984.

(4) One million seven hundred thousand dollars ($1,700,000) shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized to carry out the program established by Chapter 11 (commencing with Section 50800), if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(5) Two million five hundred thousand dollars ($2,500,000) shall be transferred by the agency to the Trustees of the California State University for deposit in the Affordable Student Housing Revolving Fund, established pursuant to Section 90087 of the Education Code, and utilized to carry out the program established by Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code, if Assembly Bill 133 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(6) Three hundred thousand dollars ($300,000) shall be transferred by the agency to the department and utilized to carry out the program established by Chapter 3.6 (commencing with Section 50533), if Senate Bill 19 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(7) Four million two hundred thousand dollars ($4,200,000) shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes authorized by that section, if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(c) An amount not to exceed four million dollars ($4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in the separate account established pursuant to subdivision (b) and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for the purposes specified in paragraph (3) of subdivision (b) if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized for the purposes specified in paragraph (4) of subdivision (b) if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Twenty-five percent of the moneys shall be transferred by the

agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes specified in paragraph (7) of subdivision (b) if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(d) If any of the bills specified in paragraphs (2) to (7), inclusive, of subdivision (b), or subdivision (c), are not chaptered or do not become effective and operative on or before January 1, 1984, or the expenditure of funds for any of the purposes authorized by subdivisions (b) or (c) is otherwise reduced, the amount of funds allocated pursuant to those subdivisions shall be reallocated by the agency, between January 1, 1984, and January 14, 1984, among the remaining programs specified in subdivision (b) or (c), for which the funds were not reduced, on a pro rata basis.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to commence the rehabilitation of residential hotels and thereby avoid further losses of affordable housing stock as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 683

An act to amend Section 217.1 of the Penal Code, relating to crimes.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 217.1 of the Penal Code is amended to read:

217.1. (a) Every person who commits any assault upon the President or Vice President of the United States, the Governor of any state or territory, any justice or judge of the United States or any state or territory, the secretary or director of any executive agency or department of the United States or any state or territory, or any other official of the United States or any state or territory holding elective office, any mayor, city council member, county supervisor, sheriff, district attorney, or the chief of police of any municipal police department, in retaliation for or to prevent the performance of the victim's official duties, shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

(b) Every person who attempts to commit murder against any person listed in subdivision (a) in retaliation for or to prevent the performance of the victim's official duties, shall be confined in the

state prison for a term of 15 years to life. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 15 years in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 684

An act to add and repeal Chapter 27 (commencing with Section 17850) of Part 10 of the Education Code, relating to school districts, and making an appropriation therefor.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Chapter 27 (commencing with Section 17850) is added to Part 10 of the Education Code, to read:

CHAPTER 27. ALTERNATIVES TO NEW BUILDING CONSTRUCTION

17850. It is the intent of the Legislature to encourage school districts with a shortage in school facilities, and which would otherwise be eligible for funding under the State School Lease-Purchase Law of 1976, to use alternatives to the construction of new buildings to reduce or eliminate their need for new school facilities. It is the intent of the Legislature that this be accomplished by providing fiscal incentives for school districts to adopt alternatives to new building construction.

17851. For purposes of this chapter, the following definitions shall apply:

(a) "Alternatives to new construction" means any method for reducing or eliminating the need for new school facilities devised by a school district. Alternatives to new construction shall include, but not be limited to, the operation of year-round schools and extended day sessions. Alternatives to new construction shall not include housing units of average daily attendance in relocatable classrooms leased to the school district by the state.

(b) "Board" means the State Allocation Board.

(c) "Estimated average daily attendance" means the estimated average daily attendance of a school district or attendance area computed pursuant to the provisions of Article 3 (commencing with Section 17740) of Chapter 22 and the regulations adopted thereunder by the board.

(d) "Facilities application" means an application for new school facilities submitted by an applicant school district pursuant to Section 17717. A facilities application shall not include an application for the reconstruction or replacement of school facilities.

17852. (a) Any school district which has filed a facilities application with the board and is eligible to receive a construction apportionment at a priority level at least equal to the minimum required by the board for such apportionments may elect to apply to the board for incentive payments pursuant to this chapter.

(b) A school district which elects to apply for incentive payments shall reduce its facilities application by the number of units of estimated average daily attendance to be housed by the alternatives to new construction, and file an application with the board for incentive payments based upon that number of units of estimated average daily attendance.

(c) A school district which utilized alternatives to new construction in the 1982–83 fiscal year but did not file a facilities application with the board on or before July 1, 1983, shall not be eligible to apply for incentive payments based upon the number of units of average daily attendance housed by those alternatives to new construction in the 1982–83 fiscal year.

17852.5. The reduction in a facilities application pursuant to subdivision (b) of Section 17852 shall not affect the board's computation of priority points for the remainder of an eligible new construction project.

17853. The board shall determine the average cost of new school facilities construction per unit of average daily attendance for the elementary school, junior high school, and high school grade levels, respectively, based upon the current school building cost standards established by the board pursuant to Section 17717.

17854. (a) In the first fiscal year following the approval of a school district's application for incentive payments, and each fiscal year thereafter, the board shall adjust the estimated average daily attendance to be housed by the alternatives to new construction based upon the latest actual fall enrollment in the district. The board shall then compute the eligible incentive payment as follows:

(1) Multiply the adjusted average daily attendance by the appropriate average cost of new school facilities construction per unit of average daily attendance determined pursuant to Section 17853.

(2) Multiply the product, or, in the case of an alternative to new construction which would house more than one grade level, the sum of the products, obtained pursuant to paragraph (1) by a percentage which is equal to one-half of the percentage interest rate which the

state is paying on the bonds issued to implement the State School Building Lease-Purchase Bond Law of 1982.

(b) Beginning in the 1984–85 fiscal year, and each fiscal year thereafter, on or before December 15, the board shall provide the Superintendent of Public Instruction with certification of the eligible incentive payment due each district pursuant to this section.

17855. The Superintendent of Public Instruction shall include the amount certified pursuant to subdivision (b) of Section 17854 in the February apportionment of each district receiving an eligible incentive payment pursuant to this chapter, for use for any purpose not otherwise prohibited by law.

17856. Notwithstanding Section 33050, the provisions of this chapter shall not be waived by the State Board of Education.

17857. Commencing with the 1984–85 fiscal year, and each fiscal year thereafter, from the amount which would otherwise be transferred from the General Fund to the State School Building Lease-Purchase Fund and the State School Deferred Maintenance Fund pursuant to Section 17780, the Controller shall transfer to Section A of the State School Fund for apportionment by the Superintendent of Public Instruction the amount certified by the State Allocation Board pursuant to subdivision (b) of Section 17854 for allocation pursuant to this chapter.

17858. This chapter shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

CHAPTER 685

An act to amend Section 1684 of the Labor Code, relating to farm labor contractors.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 1684 of the Labor Code is amended to read:

1684. The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew such license, until all of the following conditions are satisfied:

(a) The person has executed a written application therefor in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing (1) a statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as

a farm labor contractor if the license is issued, and (2) the names and addresses of all persons except bona fide employees on stated salaries, financially interested, either as partners, associates or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(b) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(c) The person has deposited with the Labor Commissioner a surety bond in the sum of five thousand dollars ($5,000). The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure so to do, or by any violation of the provisions of this chapter, or false statements or misrepresentations made in the procurement of the license. If a deposit is given instead of a bond, the Labor Commissioner may charge reasonable legal fees against the deposit for handling claims, other than wage claims, filed against the deposit.

(d) The person has paid to the Labor Commissioner a license fee of two hundred fifty dollars ($250) plus a filing fee of ten dollars ($10). However, where a timely application for renewal is filed, the ten-dollar ($10) filing fee is not required. The Labor Commissioner shall deposit twenty-five dollars ($25) of each licensee's annual license fee into a separate account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee when the damage exceeds the limits of the licensee's bond. Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the separate account.

(e) The person in an oral or written examination, or both, demonstrates a degree of knowledge of the laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers and the public. This examination shall include a demonstration of knowledge of safe work practices related to pesticide use, including all of the following subjects:

(1) Field reentry regulations.

(2) Worker pesticide safety training.

(3) Employer responsibility for safe working conditions.

(4) Symptoms and appropriate treatment of pesticide poisoning.

The Labor Commissioner shall consult with the Director of Food and Agriculture in preparing this examination and may charge a fee of not more than thirty-five dollars ($35) to cover the cost of administration of the examination.

(f) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in subdivision (e) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding four years.

(2) Has not during the preceding year been found to be in violation of any pesticide worker safety requirement, including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

(3) Has complied with all other requirements of this section.

(g) The person has registered as a farm labor contractor pursuant to the Federal Farm Labor Contractor Registration Act (Chapter 52 (commencing with Section 2041), Title 7, United States Code), when registration is required pursuant to federal law.

CHAPTER 686

An act to add and repeal Chapter 4.5 (commencing with Section 3240) of Division 4 of the Health and Safety Code, relating to health.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983]

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

SECTION 1. Chapter 4.5 (commencing with Section 3240) is added to Division 4 of the Health and Safety Code, to read:

CHAPTER 4.5. CHLAMYDIA TRACHOMATIS SCREENING AND CONTROL PROGRAM

3240. The State Department of Health Services may establish a three-year pilot program to screen women for Chlamydia trachomatis infections, which are a major contributor to the condition known as pelvic inflammatory disease. This program shall be administered under the state venereal disease control program under Chapter 4 (commencing with Section 3180).

3241. (a) All health clinics or centers which participate in the state gonococcal salpingitis screening program may participate in the pilot project pursuant to this chapter. These clinics or centers may test women for the Chlamydia trachomatis organism at the same time the patients are being tested for N. Gonorrhoeae. Health clinics or centers interested in participating in the pilot program shall submit a letter of intent to the State Department of Health Services. The state department may select health clinics and centers to participate in the program that it determines will represent a variety of populations, ethnic backgrounds, and other socioeconomic factors.

(b) The state department may provide the screening sites for this program with any increased laboratory support which the state department determines is necessary to diagnose the presence of the

Chlamydia trachomatis organism.

(c) The state department may give training in patient counseling, tracing of sex partners, and other educational activities regarding Chlamydia trachomatis to persons who work in clinics or centers which are participating in the program.

(d) The State Department of Health Services shall seek federal funds for purposes of the pilot program. The program shall only be operative to the extent that these funds are received.

3242. At the end of the three-year pilot program, the State Department of Health Services may evaluate the program and provide the Legislature with a report stating the number of infections that have been treated and that might have been missed without this project, and comparing long-term benefits as a result of the effectiveness of the program.

3243. This chapter shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

CHAPTER 687

An act to amend Section 6301.7 of, and to add Chapter 6 (commencing with Section 26650) to Division 17 of, the Public Resources Code, relating to protection of land, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 6301.7 of the Public Resources Code is amended to read:

6301.7. The commission may negotiate with, and with the approval of the Governor may enter into agreements with, the United States, or any official, agency, licensee, permittee, or lessee thereof, concerning the effect, if any, of any then existing or proposed or projected fill, dredging, or construction operations or other activities on or adjacent to tide and submerged lands within the County of Los Angeles or Ventura upon the boundary between state-owned submerged lands and the outer continental shelf lands under the jurisdiction of the United States, or concerning the location of that boundary. The agreements may include, but are not limited to, a waiver on behalf of the State of California of any state-owned submerged lands which would otherwise inure to the state as a result of any such fill, dredging, or construction operations, or other activities. The commission shall, before entering into any such agreement, find that the agreement is in the public interest.

SEC. 2. Chapter 6 (commencing with Section 26650) is added to Division 17 of the Public Resources Code, to read:

CHAPTER 6. MAINTENANCE

26650. A district may levy and collect assessments pursuant to this chapter to pay for the cost and expenses of the maintenance and operation of any improvements acquired or constructed pursuant to this division.

26651. The board of directors shall adopt a resolution declaring its intention to order that the cost and expenses of maintaining and operating an improvement acquired or constructed pursuant to this division shall be assessed against the property within the district benefited thereby. The resolution shall contain both of the following:

(a) A report prepared by an officer of the district which sets forth the yearly estimated budget, the proposed estimated assessments to be levied each year against each parcel of property, and a description of the method used in formulating the estimated assessments.

(b) The time, date, and place for the hearing of protests to the proposed assessments.

26652. The board of directors shall cause a notice of the adoption of the resolution described in Section 26651 to be mailed by first class mail to each owner of real property within the district as shown on the last equalized assessment roll of the county. The notice shall be mailed not less than 14 days prior to the date set for the hearing and shall contain all of the following:

(a) A statement that the board of directors has adopted the resolution.

(b) The time, date, and place set forth in the resolution for the hearing of protests on the proposed assessments.

(c) A statement of the total yearly estimated budget for the maintenance and operation of the improvements.

(d) A statement that the report described in Section 26651 is available for inspection at the office of the district.

(e) The name and telephone number of a person designated by the board of directors to answer inquiries regarding the proposed assessment.

26653. At the hearing, the board of directors shall hear and consider all protests. At the conclusion of the hearing, the board of directors may adopt, revise, change, reduce, or modify any assessment and shall make its determination upon each assessment described in the report. Thereafter, by resolution, the board of directors may confirm the assessments and order the levy and collection thereof.

26654. Following the order by resolution of the levy and collection of assessments by the board of directors, the clerk shall cause to be recorded a notice of assessment, as provided for in Section 3114 of the Streets and Highways Code, whereupon the assessment shall attach as a lien upon the property, as provided in

Section 3115 of the Streets and Highways Code.

Thereafter, the clerk shall collect the assessments as directed by the board of directors, or, in lieu of collection by the clerk, the board of directors may provide that the assessments are payable at the same time and in the same manner as general taxes on real property are payable.

A district board of directors shall reimburse the city or county, as the case may be, for any cost incurred pursuant to this section.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated 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 the necessity are:

In order to give the State Lands Commission authority, which it now lacks, to negotiate certain agreements with the United States with respect to necessary projects on or adjacent to tide and submerged lands in Los Angeles County and in order to provide a method of financing the maintenance and operation expenses of improvements necessary to abate geologic hazards, it is necessary that this act take effect immediately.

CHAPTER 688

An act to amend Section 21080.4 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 21080.4 of the Public Resources Code is amended to read:

21080.4. (a) If a lead agency determines that an environmental impact report is required for a project, the lead agency shall immediately send notice of that determination by certified mail or an equivalent procedure to each responsible agency and to those public agencies having jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California. Upon receipt of the notice, each responsible agency shall specify to the lead agency the scope and content of the environmental information which is germane to that responsible agency's statutory responsibilities in connection with the proposed

project and which, pursuant to the requirements of this division, shall be included in the environmental impact report. The information shall be specified in writing and shall be communicated to the lead agency by certified mail or equivalent procedure not later than 30 days after receipt of the notice of the lead agency's determination. The lead agency shall request similar guidance from appropriate federal agencies.

(b) In order to expedite the requirements of subdivision (a), the lead agency or any responsible agency or public agency having jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California may request one or more meetings between representatives of those agencies for the purpose of assisting the lead agency to determine the scope and content of the environmental information any responsible agency may require. In the case of a project described in subdivision (c) of Section 21065, the request may also be made by the project applicant. The meetings shall be convened by the lead agency as soon as possible, but no later than 30 days, after they have been requested.

(c) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist the lead agency in determining the various responsible agencies and any federal agencies which have responsibility for carrying out or approving a proposed project. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant.

(d) If a state agency is a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California, subject to the requirements of subdivision (a), the Office of Planning and Research shall ensure that the information required by subdivision (a) is transmitted to the lead agency within the required time period.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 689

An act to amend Section 10063 of the Health and Safety Code, relating to public social services.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 10063 of the Health and Safety Code is amended to read:

10063. The local registrar of births and deaths shall furnish to the registrar of voters or county clerk not later than the 15th day of each month a notification of all deceased persons 18 years of age and over whose deaths were registered with him or of whose deaths he was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, social security number, sex, age, birthplace, birthdate, place of residence, and date and place of death for each such decedent. Copies of this notification list shall be sent at the same time to the county welfare department and the local district social security office.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 690

An act to amend Sections 15340 and 15342 of, and to add Sections 15340.1, 15343, and 15344 to, the Government Code, relating to displaced workers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 15340 of the Government Code is amended to read:

15340. The Legislature declares the following:

(a) The state must meet the competitive challenges of the 1980's and provide sufficient employment opportunities for its population, and the mature sectors of the state's industrial base must be revitalized.

(b) In some instances, the revitalization process has and will continue to entail the closure of some plants and the attendant severe economic dislocations for displaced workers, their families, and the communities.

(c) The state has an obligation to its citizens to adopt policies which not only help alleviate the unemployment and economic distress of major plant closings, but which also promote a healthy business climate in order to facilitate the creation of new jobs to replace those lost to plant closings in the mature sectors of the economy.

(d) There is a need to assure that this assistance from the state is available on a systematic and coordinated basis and that private industry councils, entities administering job training plans for displaced workers under the federal Job Training Partnership Act (P.L. 97-300), workers, firms, and communities know of its availability and can access it.

(e) The availability of this assistance from the state can serve as an incentive for early notification to workers, local governments, and the state regarding anticipated plant closures or mass layoffs well in advance of their occurrence in order that special assistance may be offered to avert unnecessary closings or to prevent severe economic dislocation.

SEC. 2. Section 15340.1 is added to the Government Code, to read:

15340.1. It is the intent of the Legislature to assure a rapid, one-stop procedure at the state level for assisting local entities in obtaining access to federal and state programs suitable for serving displaced workers, their families, and communities affected by plant closings and mass layoffs.

SEC. 3. Section 15342 of the Government Code is amended to read:

15342. The responsibilities of the California Economic Adjustment Team shall include, but not be limited to, the following:

(a) Alleviating adverse conditions that might cause plant closures and, where these closures have been unavoidable, assisting local efforts to secure alternative employment and retraining opportunities for displaced workers.

(b) Seeking the participation and advice of individuals representative of local government, business, and labor in fulfilling its responsibilities. The advice of these knowledgeable community leaders shall be drawn upon to assure effective assistance by the state responsive to particular community needs and circumstances.

(c) Assisting, upon the request of local communities, in marshalling available state and federal resources to aid workers and communities affected by major plant closures and to foster long-term, continuing economic vitality, industrial growth, and job opportunities.

(d) Integrating the activities of its member entities through a state one-stop Displaced Worker Assistance Center. The center shall be responsible for the following: (1) providing immediate information to local entities about state and federal programs which can serve displaced workers, their families, and communities, and (2) assisting in the coordination of programs provided under Title III of the Job Training Partnership Act (P.L. 97-300) with programs and services provided by state and local education and training agencies, public assistance agencies, the Employment Development Department, rehabilitation agencies, economic development agencies, and other entities which carry out activities pertinent to successful positive adjustment on the part of displaced workers and the families and communities.

(e) Overseeing the collection of data and preparation of economic analyses and reporting intended to provide better and more detailed assessments of future trends within the industrial, commerical, and agricultural sectors of the economy.

(f) Studying and making recommendations to the Governor and the Legislature regarding changes needed in current federal and state statutes and programs in order to minimize harmful consequences of plant closures and promote rapid reemployment of workers and revitalization of communities.

(g) Cooperating with all other state, federal and local agencies, departments, and commissions as is necessary to carry out its responsibilities.

SEC. 4. Section 15343 is added to the Government Code, to read:

15343. A plan to assure rapid and effective state response to local entities requesting assistance in developing programs for displaced workers shall be prepared by the State Displaced Worker Assistance Center and submitted for approval to the State Job Training Coordinating Council established pursuant to Chapter 4.5 (commencing with Section 15035) of Division 8 of the Unemployment Insurance Code. The plan shall include specific procedures for enabling private industry councils, entities administering job training plans for displaced workers under the federal Job Training Parternship Act (P.L. 97-300), workers, firms, and communities to access each of the federal and state resources appropriate for serving displaced workers. The plan shall facilitate development and implementation of local Displaced Worker Assistance programs pursuant to Chapter 7.5 (commencing with Section 15075) of Division 8 of the Unemployment Insurance Code.

SEC. 5. Section 15344 is added to the Government Code, to read:

15344. The State Displaced Worker Assistance Center shall report to the State Job Training Coordinating Council on the type

and number of requests it receives and the results of its assistance, including the activities carried out by each member of the California Economic Adjustment Team.

SEC. 6. The Displaced Worker Assistance Center shall not be established until funding is allocated from the Job Training Partnership Act by the State Job Training Council or its designee.

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 the necessity are:

In order to meet the immediate need for a one-stop Displaced Worker Assistance Center to assist in the development and coordination of programs to be provided for displaced workers with funds available under Title III of the federal Job Training Partnership Act it is necessary that this act go into immediate effect.

CHAPTER 691

An act to amend Section 651 of the Business and Professions Code, relating to professional advertising.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated, any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim, for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(b) A false, fraudulent, misleading, or deceptive statement or claim includes a statement or claim which does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) Is intended or is likely to create false or unjustified expectations of favorable results.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and

specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(c) 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 person 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, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a 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.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in such publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates any provision of this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision but only to this subdivision.

(g) Any violation of any provision of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his practice to specific fields. For the purposes of this section, the statement of a practitioner licensed under Chapter 4 (commencing

with Section 1600) who limits his or her practice to a specific field or fields, shall only include a statement that he or she is certified or is eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board. A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (15), inclusive, provided, that any such statement shall not violate the provisions of subdivisions (a), (b), (c), or (e) of this section or the provisions of any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce the provisions of this section 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.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by business or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for such service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise such

service. Such boards and committees shall adopt or modify regulations defining which services may be advertised, the manner in which defined services may be advertised, and restricting advertising which would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of such regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce the provisions of this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

SEC. 2. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated, any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim, for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(b) A false, fraudulent, misleading, or deceptive statement or claim includes a statement or claim which does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) Is intended or is likely to create false or unjustified expectations of favorable results.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Contains representations which are not supported by fact sufficient to justify those representations and which disparage the

professional ability of a physician or group of physicians or a dentist or group of dentists or which claim the licensee possesses superior ability in treatment or superior methods of treatment in comparison to that of other physicians, when those methods and treatments are performed routinely by members of more than one medical speciality group.

(c) 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 person 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, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a 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.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in such publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates any provision of this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision.

(g) Any violation of any provision of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his

practice to specific fields. For the purposes of this section, the statement of a practitioner licensed under Chapter 4 (commencing with Section 1600), who limits his or her practice to a specific field or fields, shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board. A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (15), inclusive, provided, that any such statement shall not violate the provisions of subdivisions (a), (b), (c), or (e) of this section or the provisions of any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce the provisions of this section 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.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by business or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for such service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been

issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise such service. Such boards and committees shall adopt or modify regulations defining which services may be advertised, the manner in which defined services may be advertised, and restricting advertising which would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of such regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce the provisions of this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

SEC. 3. Section 2 of this bill incorporates amendments to Section 651 of the Business and Professions Code proposed by both this bill and AB 893. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 651 of the Business and Professions Code, and (3) this bill is enacted after AB 893, in which case Section 1 of this bill shall not become operative.

CHAPTER 692

An act to amend Section 1724 of the Business and Professions Code, relating to dentistry.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 1724 of the Business and Professions Code is amended to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be fixed by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for applicants for a license shall not exceed one

hundred dollars ($100).

(b) The fee for applicants for examination and for reexamination shall not exceed one hundred fifty dollars ($150). Applicants who are found to be ineligible to take the examination shall be entitled to a refund in an amount fixed by the board.

(c) The fee for an initial license and for the renewal of a license shall not exceed one hundred fifty dollars ($150).

(d) The delinquency fee shall not exceed twenty-five dollars ($25).

(e) The restoration fee for a license forfeited for nonregistration shall not exceed one hundred dollars ($100).

(f) The penalty for late registration of change of place of practice shall not exceed twenty-five dollars ($25).

(g) The application fee for permission to conduct an additional place of practice shall not exceed one hundred dollars ($100).

(h) The renewal fee for an additional place of practice shall not exceed one hundred dollars ($100).

(i) The fee for issuance of a substitute certificate shall not exceed twenty-five dollars ($25).

(j) The fee for a registered provider of continuing education shall not exceed one hundred dollars ($100) per year.

(k) The fee for a nonregistered provider of continuing education shall not exceed ten dollars ($10) for each course given by the nonregistered provider.

CHAPTER 693

An act to amend Section 10971 of the Insurance Code, relating to insurance.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 10971 of the Insurance Code is amended to read:

10971. This chapter shall not, except as provided by Sections 10972 and 10974, affect:

(a) A lodge operating under the lodge system, which provides in its by-laws or rules or regulations for the payment of death benefits not exceeding one thousand dollars ($1,000) on the death of a member or for the payment of disability benefits not exceeding one thousand dollars ($1,000) to a member during any period of 12 consecutive calendar months, or both such types of benefits.

(b) The subordinate branch of a lodge, as a lodge is defined in Section 10972, or any association formed by the members of a lodge, which association confines its membership to the members of such

lodge, which subordinate branch or association (1) is organized without capital stock, (2) is organized and operated solely for the benefit of its members or their beneficiaries and not for profit, and (3) provides in its by-laws or rules or regulations for the payment of either or both of the following benefits: (i) A benefit of not exceeding one thousand dollars ($1,000) on the death of a member from any cause; (ii) A benefit of not exceeding one thousand dollars ($1,000) on the accidental death of a member or benefits not exceeding one thousand dollars ($1,000) during any period of 12 consecutive calendar months to a member for his disability.

(c) A lodge operating under the lodge system or any subordinate branch thereof or any association formed by the members thereof which association confines its membership to the members of such lodge, which subordinate branch or association (1) is organized without capital stock, (2) is organized and operated solely for the benefit of its members or their beneficiaries and not for profit, and (3) provides in its by-laws or rules or regulations for the payment of death benefits not exceeding one thousand dollars ($1,000) on the death of a member or for the payment of disability benefits not exceeding one thousand dollars ($1,000) to a member during any period of 12 consecutive calendar months, or both such types of benefits.

(d) Contracts of reinsurance on a plan under subdivisions (a), (b) or (c).

CHAPTER 694

An act to amend Section 723 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 723 of the Revenue and Taxation Code is amended to read:

723. The board may use the principle of unit valuation in valuing properties of an assessee that are operated as a unit in a primary function of the assessee. When so valued, those properties are known as "unitary property." Property of an assessee not valued through the use of the principle of unit valuation are known as "nonunitary property." When valuing nonunitary property, the board shall consider current market value information of comparable properties provided by the assessor just prior to the reappraisal by the board of that property.

CHAPTER 695

An act to amend Sections 1250, 1254, 1255, 1260, and 1268 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

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

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

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

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

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

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

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

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

(g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

SEC. 3. Section 1254 of the Health and Safety Code is amended to read:

1254. The state department shall inspect and license health facilities. The state department shall license general acute care hospitals, acute psychiatric hospitals, skilled nursing facilities, intermediate care facilities, and special hospitals to provide their respective basic services specified in Section 1250. Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

SEC. 4. Section 1255 of the Health and Safety Code is amended to read:

1255. In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (c) of Section 1277 to offer special services including, but not limited to, the following:

(a) Radiation therapy department.
(b) Burn center.
(c) Emergency center.
(d) Hemodialysis center (or unit).
(e) Psychiatric.
(f) Intensive-care newborn nursery.
(g) Cardiac surgery.
(h) Renal transplant.

(i) Such other special services as the department may prescribe by regulation.

A general acute care hospital which exclusively provides acute medical rehabilitation center services may be approved in accordance with subdivision (b) of Section 1277 to offer special services not requiring surgical facilities.

The state department shall adopt standards for special services and such other regulations as may be necessary to implement this section.

A cardiac surgery service shall perform both cardiovascular procedures requiring extra corporeal coronary artery bypass and coronary arteriography including left ventriculography. However, a facility which, as of October 1, 1980, offered either the required surgical capability or the required catheterization capability shall not be prevented by this provision from continuing to offer such capability, nor shall any facility which acquired equipment to perform coronary arteriography, including left ventriculography, prior to October 1, 1980, and which met all of the applicable licensing requirements relating to staff and procedural room space for the catheterization component of a cardiac surgery service, and which notified the Office of Statewide Health Planning and Development in writing prior to October 1, 1980, of its intention to offer such capability, be prevented by this provision from offering such capability.

SEC. 5. Section 1260 of the Health and Safety Code is amended to read:

1260. (a) As used in this section, "nonprofit hospital" means a general acute care hospital or an acute psychiatric hospital owned and operated by a fund, foundation, or corporation, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) A nonprofit hospital may exercise the right of eminent domain to acquire property necessary for the establishment, operation, or expansion of the nonprofit hospital if both of the following requirements are satisfied:

(1) The property to be acquired by eminent domain is adjacent to other property used or to be used for the establishment, operation, or expansion of the nonprofit hospital.

(2) The Director of Statewide Health Planning and Development has certified, after the public hearing required by subdivision (c), all of the following:

(A) The acquisition of the property sought to be condemned is necessary for the establishment, operation, or expansion of the nonprofit hospital.

(B) The public interest and necessity require the proposed project.

(C) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(c) The Director of Statewide Health Planning and Development

shall adopt reasonable regulations which will provide for a public hearing to be conducted by a hearing officer in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code in the area where the hospital is located to determine the necessity of the proposed project and of any acquisition of property for the project. Written notice of the hearing shall be given to the voluntary area health planning agency, if one exists, in the area where the hospital is located. The voluntary area health planning agency so notified shall make its recommendations to the hearing officer within 90 days from the receipt of notice. No hearing shall be held prior to the expiration of such 90-day period unless the hearing officer has received the recommendations of the voluntary area health planning agency. At the public hearing, the hearing officer shall ensure that the hearing, in part at least, considers the impact of the proposed project upon the delivery of health care services in the community and upon the environment, as gathered from an environmental impact report. The applicant and all interested parties to the acquisition, including the voluntary area health planning agency, have the right to representation by counsel, the right to present oral and written evidence, and the right to confront and cross-examine opposing witnesses. A transcript of the public hearing shall be filed with the Director of Statewide Health Planning and Development as a public record.

SEC. 6. Section 1268 of the Health and Safety Code is amended to read:

1268. Upon the filing of the application for licensure or for a special permit for special services and full compliance with the provisions of this chapter and the rules and regulations of the state department, the state department shall issue to the applicant the license or special permit applied for. A license shall not be issued or renewed for beds permanently converted to other than patient use and which do not meet construction and operational requirements. However, if the director finds that the applicant is not in compliance with the laws or regulations of this part, the director shall deny the applicant a license or a special permit for special services. Additionally, the director shall not issue a license covering a project within the meaning of Section 437.10 for which there is no valid, subsisting, and unexpired certificate of need issued pursuant to Part 1.5 (commencing with Section 437) of Division 1.

The conversion of a general acute care hospital or special hospital to a general acute care hospital which exclusively provides acute medical rehabilitation center services shall not require a certificate of need, as required by Section 437.10, if the health facility is rendering the services specified in subdivision (f) of Section 1250 on January 1, 1979.

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 the necessity are:

In order to bring health facility licensure classifications in compliance with current practices in the health industry, it is necessary that this act take effect immediately.

CHAPTER 696

An act to amend Sections 2750, 2761, 2765, 2795, 2796, and 2800 of, and to add Article 7 (commencing with Section 2825) to Chapter 6 of Division 2 of, the Business and Professions Code, relating to nurse anesthetists.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 2750 of the Business and Professions Code is amended to read:

2750. Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 2. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a certified or licensed nurse or an applicant for a certificate or license for:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions or nurse anesthetist functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 of Divison 2 of the Business and Professions Code, in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500 of this code.

(b) Procuring his or her certificate by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(e) Making or giving any false statement or information in connection with the application for issuance of a license.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his or her certificate for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of any of the provisions of Article 13, Chapter 5, Division 2 of this code.

(j) Holding oneself out to the public or to any practitioner of the healing arts as a "nurse practitioner" or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) of this chapter.

(k) Revocation or suspension of a license to practice nursing by another state or territory of the United States for any act or omission which would constitute grounds for the revocation or suspension of a license in this state.

SEC. 3. Section 2765 of the Business and Professions Code is amended to read:

2765. 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 and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or 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 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.

SEC. 4. Section 2795 of the Business and Professions Code is amended to read:

2795. Except as provided in this chapter, it is unlawful for any person to practice or to offer to practice nursing in this state unless such person holds a license in an active status, or to use any title, sign, card or device to indicate that he or she is qualified to practice or is practicing nursing, unless such person has been duly licensed or certified under this chapter.

SEC. 5. Section 2796 of the Business and Professions Code is amended to read:

2796. It is unlawful for any person or persons not licensed or

certified as provided in this chapter to use the title "registered nurse," the letters "R.N.," or the words "graduate nurse," "trained nurse," or "nurse anesthetist."

It is unlawful for any person or persons not licensed or certified as provided in this chapter to impersonate a professional nurse or pretend to be licensed to practice professional nursing as provided in this chapter.

SEC. 6. Section 2800 of the Business and Professions Code is amended to read:

2800. None of the sections in this article, except Sections 2796 and 2797, shall be applicable to any person or persons specifically exempted from the general provisions of this act by Section 2731 hereof, or to schools conducted by any well recognized church or denomination for the purpose of training the adherents of such church or denomination in the care of the sick in accordance with its religious tenets; and any adherent of any well recognized church or denomination who engages in nursing or the care of the sick in connection with the practice of the religious tenets of such well recognized church or denomination may use the word "nurse" in connection with or following his or her name, provided he or she shall not use the title "registered nurse," the letters "R.N.," the words "graduate nurse," "trained nurse," "nurse anesthetist," or any other name, word or symbol in connection with or following his or her name so as to lead another or others to believe that he or she is a professional nurse licensed under the provisions of this chapter.

SEC. 7. Article 7 (commencing with Section 2825) is added to Chapter 6 of Division 2 of the Business and Professions Code, to read:

Article 7. Nurse Anesthetists

2825. This article may be cited as the Nurse Anesthetists Act.

2826. As used in this article:

(a) "Nurse anesthetist" means a person who is a registered nurse, licensed by the board and who has met standards for certification from the board. In the certification and recertification process the board shall consider the standards of the Council on Certification of Nurse Anesthetists and the Council on Recertification of Nurse Anesthetists and may develop new standards if there is a public safety need for standards more stringent than the councils' standards. In determining the adequacy for public safety of the councils' standards or in developing board standards, the board shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) "Accredited Program" means a program for the education of nurse anesthetists which has received approval from the board. In the approval process the board shall consider the standards of the Council on Accreditation of Nurse Anesthesia Education Programs and Schools and may develop new standards if the councils' standards are determined to be inadequate for public safety. In

determining the adequacy for public safety of the councils' standards or in developing board standards, the board shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) "Appropriate committee" means the committee responsible for anesthesia practice which is responsible to the executive committee of the medical staff.

(d) "Trainee" means a registered nurse enrolled in an accredited program of nurse anesthesia.

(e) "Graduate" means a nurse anesthetist who is a graduate of an accredited program of nurse anesthesia awaiting initial certification results for not more than one year from the date of graduation.

2827. The utilization of a nurse anesthetist to provide anesthesia services in an acute care facility shall be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist or podiatrist. If a general anesthetic agent is administered in a dental office, the dentist shall hold a permit authorized by Section 1646.

2828. In an acute care facility, a nurse anesthetist who is not an employee of the facility shall, nonetheless, be subject to the bylaws of the facility and may be required by the facility to provide proof of current professional liability insurance coverage. Notwithstanding any other provision of law, a nurse anesthetist shall be responsible for his or her own professional conduct and may be held liable for those professional acts.

2829. It is unlawful for any person or persons to advertise, use any title, sign, card, or device, or to otherwise hold himself or herself out as a "nurse anesthetist" unless the person meets the requirements of subdivision (a) of Section 2826 and has been so certified under the provisions of this article.

2830. The board shall issue a certificate to practice nurse anesthesia to any person who qualifies under this article and is licensed pursuant to the provisions of this chapter.

2830.5. Every applicant shall show by evidence satisfactory to the board that he or she has met the requirements of this article.

2830.6. Notwithstanding Section 2830, the board shall certify all applicants who can show certification by the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists as of the effective date of this chapter. This certification shall be documented to the board in a manner to be determined by the board. Proof of certification shall be filed with the board within six months from the effective date of this article and the board shall, within one year from the effective date of this article, issue a certificate to applicants who have filed proof of certification within that six-month period.

2831. An applicant for certification pursuant to this article shall submit a written application in the form prescribed by the board, accompanied by the fee prescribed by Section 2815.5 which shall also apply to the issuance of a certificate under the provisions of this

article.

2832. Every applicant for a certificate to practice nurse anesthesia shall comply with all the provisions of this article in addition to the provisions of this chapter.

2833. Each certificate issued pursuant to this article shall be renewable biennially, and each person holding a certificate under this article shall apply for a renewal of his or her certificate and pay the biennial renewal fee required by Section 2815.5 every two years on or before the last day of the month following the month in which his or her birthday occurs, beginning with the second birthday following the date on which the certificate was issued, whereupon the board shall renew the certificate.

Each certificate not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by Section 2815.5 and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during that eight-year period no examination shall be required as a condition for the reinstatement of any expired certificate which has lapsed solely by reason of nonpayment of the renewable fee. After the expiration of the eight-year period the board may require as a condition of reinstatement that the applicant pass an examination as it deems necessary to determine his or her present fitness to resume the practice of nurse anesthesia.

2833.3. Nothing in this article shall be construed to limit a certified nurse anesthetist's ability to practice nursing.

2833.5. Except as provided in Section 2725 and in this section, the practice of nurse anesthetist does not confer authority to practice medicine or surgery.

2833.6. This chapter is not intended to address the scope of practice of, and nothing in this chapter shall be construed to restrict, expand, alter, or modify the existing scope of practice of, a nurse anesthetist.

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 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 697

An act to add and repeal Section 31558.3 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 31558.3 is added to the Government Code, to read:

31558.3. Notwithstanding any of the provisions of Section 31558 or 31558.2 to the contrary, each person over 35 years of age who, prior to the effective date of this section was employed in positions the principal duties of which consist of active law enforcement for not less than nine years and who is employed by a county in a position which would make such person eligible to become a safety member if he had not been over the age of 35 years at the time of his employment, may, if he so elects, become a safety member as of the first day of the calendar month following his entrance into county service regardless of age.

A member may receive credit for such service, as a safety member, when he has contributed, with interest to the date paid, the difference between contributions made and those which would have been made by the member if he had been a safety member. Such additional contributions shall be made prior to retirement.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

This section shall apply only to a county of the 20th class as established by Sections 28020 and 28041, as amended by Chapter 1204 of the Statutes of 1971.

This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 698

An act to amend Section 17739 of the Education Code, relating to school buildings.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 17739 of the Education Code is amended to read:

17739. (a) Not more than one hundred fifty million dollars ($150,000,000) of the moneys authorized by Chapter 21.5 (commencing with Section 17680) shall be reserved for the reconstruction or modernization of facilities within the meaning of this chapter.

(b) For purposes of this section, the State Allocation Board shall establish a separate priority system which shall be based on the following factors and any other factors which the board determines are appropriate:

(1) Structural condition and age of the building.

(2) Percentage of pupils affected in the district or attendance area.

(3) Degree of utilization of eligible buildings.

(4) Other building code deficiencies, such as health, safety, or electrical problems.

CHAPTER 699

An act to amend Sections 5615, 5620, 5621, 5627, 5641, 5644, 5652, 5680.1, and 5680.2 of, to add Section 7027.5 to, and to repeal Article 7 (commencing with Section 5685) of Chapter 3.5 of Division 3 of, the Business and Professions Code, and to repeal Section 2 of Chapter 375 of the Statutes of 1980, relating to landscape architects.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 5615 of the Business and Professions Code is amended to read:

5615. As used in this chapter:

"Landscape architect" means a person who holds a certificate to practice landscape architecture in this state under the authority of this chapter.

A person who practices landscape architecture within the

meaning and intent of this article is a person who performs professional services, for the purpose of landscape preservation, development and enhancement, such as consultation, investigation, reconnaissance, research, planning, design, preparation of drawings, construction documents and specifications, and responsible construction observation. Landscape preservation, development and enhancement is the dominant purpose of services provided by landscape architects. Implementation of that purpose includes: (1) the preservation and aesthetic and functional enhancement of land uses and natural land features; (2) the location and construction of aesthetically pleasing and functional approaches and settings for structures and roadways; and, (3) design for trails and pedestrian walkway systems, plantings, landscape irrigation, landscape lighting, landscape grading and landscape drainage.

Landscape architects perform professional work in planning and design of land for human use and enjoyment. Based on analysis of environmental physical and social characteristics, and economic considerations, they produce overall plans and landscape project designs for integrated land use.

The practice of a landscape architect may, for the purpose of landscape preservation, development and enhancement, include: investigation, selection, and allocation of land and water resources for appropriate uses; feasibility studies; formulation of graphic and written criteria to govern the planning and design of land construction programs; preparation review, and analysis of master plans for land use and development; production of overall site plans, landscape grading and landscape drainage plans, irrigation plans, planting plans, and construction details; specifications; cost estimates and reports for land development; collaboration in the design of roads, bridges, and structures with respect to the functional and aesthetic requirements of the areas on which they are to be placed; negotiation and arrangement for execution of land area projects; field observation and inspection of land area construction, restoration, and maintenance.

This practice shall include the location, arrangement, and design of such tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities, in accordance with the accepted public standards of health, safety, and welfare.

This chapter shall not empower a landscape architect, registered under this chapter, to practice, or offer to practice, architecture or engineering in any of its various recognized branches.

"Board" means the California State Board of Landscape Architects.

SEC. 2. Section 5620 of the Business and Professions Code is

amended to read:

5620. There is in the Department of Consumer Affairs a California State Board of Landscape Architects which shall consist of seven members. The membership of the board shall at all times consist of one member who is a resident of, and practices landscape architecture in southern California and one member who is a resident of, and practices landscape architecture in northern California. Three members of the board shall be licensed to practice landscape architecture in this state. The other four shall be public members who shall not be licentiates of the board.

SEC. 3. Section 5621 of the Business and Professions Code is amended to read:

5621. Appointments to the board shall be for a four-year term. Each member shall hold office for a term of four years expiring on June 1 of the fourth year and until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

The Governor shall appoint two of the public members and the three licensed members qualified as provided in Section 5620. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 4. Section 5627 of the Business and Professions Code is amended to read:

5627. The board shall meet at least once each calendar quarter for the purposes of transacting its regular business, and may hold meetings at such other times as it may designate. Special meetings of the board shall be called by the secretary, upon the written request of any two members of the board, by mailing to each member of the board at least 20 days in advance of such special meeting a written notice specifying the time and place thereof.

SEC. 5. Section 5641 of the Business and Professions Code is amended to read:

5641. This chapter shall not be deemed to prohibit any person from making plans or drawings for the selection, placement, or use of plants when the execution of such plans or drawings does not affect the public health, safety and welfare.

This chapter shall not be deemed to prohibit any person from making any plans, drawings or specifications for any property owned by that person.

Every person who holds a valid license issued by the State of California, under the provisions of Chapter 1 (commencing with Section 6721) of the Food and Agricultural Code, authorizing

engagement in the business of selling nursery stock in this state, may engage in the preparation of plans or drawings as an adjunct to merchandising nursery stock and related products, but may not use the title of landcape architect. Such activity is exempt from registration under the provisions of this chapter.

SEC. 6. Section 5644 of the Business and Professions Code is amended to read:

5644. Any person who holds a valid state license or other such authority which authorizes the person to engage in a business or occupation, insofar as the person engages in a professional, occupational or business activity within the scope of that license or other authority, shall not be required to register under this chapter.

SEC. 7. Section 5652 of the Business and Professions Code is amended to read:

5652. If the applicant's examination is satisfactory, and upon the payment of the certificate fee fixed by this chapter, the secretary shall issue a certificate to the applicant showing that the person named therein is entitled to practice landscape architecture in this state, in accordance with the provisions of this chapter.

SEC. 8. Section 5680.1 of the Business and Professions Code is amended to read:

5680.1. Except as otherwise provided in this chapter, a certificate which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last preceding regular renewal date. If the certificate is renewed more than 30 days after its expiration, the certificate holder, 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 certificate shall continue in effect through the date provided in Section 5680 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 9. Section 5680.2 of the Business and Professions Code is amended to read:

5680.2. A certificate which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the certificate may apply for and obtain a new certificate if:

(a) No fact, circumstance, or condition exists which, if the certificate were issued, would justify its revocation or suspension,

(b) The applicant pays all of the fees which would be required of the applicant if the applicant were then applying for the certificate for the first time, and

(c) The applicant takes and passes the examination which would be required of the applicant if the applicant were then applying for the certificate for the first time, or otherwise establishes to the

satisfaction of the board that the applicant is qualified to practice landscape architecture.

The board may, by regulation, authorize the waiver or refund of all or any part of the examination fee in those cases in which a certificate is issued without an examination under this section.

SEC. 10. Article 7 (commencing with Section 5685) of Chapter 3.5 of Division 3 of the Business and Professions Code is repealed.

SEC. 11. Section 2 of Chapter 375 of the Statutes of 1980 is repealed.

SEC. 12. Section 7027.5 is added to the Business and Professions Code, to read:

7027.5. A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor.

CHAPTER 700

An act to add Section 290.2 to the Penal Code, relating to sexual offenders, and making an appropriation therefor.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 290.2 is added to the Penal Code, to read:

290.2. (a) Any person required to register under Section 290 because of the commission of or the attempt to commit a felony offense specified in Section 290 who is discharged or paroled from a state prison where he or she was confined or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be required to provide two specimens of blood and a saliva sample to that institution.

The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist, or clinical laboratory bioanalyst may withdraw the blood specimens for purposes of this section.

(b) The Department of Justice shall provide all blood specimen vials, mailing tubes, labels, and instructions for the collection of the blood specimens and saliva samples. The specimens and samples shall thereafter be forwarded to the Department of Justice criminalistics laboratory in Sacramento for analysis and categorizing into blood groupings.

(c) The blood grouping analysis information shall be filed with the

offender's file maintained by the Sex Registration Unit of the Department of Justice, and shall not be included in the state summary criminal history information.

(d) The blood grouping analysis information shall be released only to law enforcement agencies and district attorneys' offices, at the request of the agency.

SEC. 2. The sum of thirty-seven thousand five hundred dollars ($37,500) is hereby appropriated from the General Fund to the Department of Justice for expenditure for the purposes of this act from January 1, 1984, to June 30, 1984, inclusive.

CHAPTER 701

An act to amend Section 1731.5 of the Welfare and Institutions Code, relating to youth.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 1731.5 of the Welfare and Institutions Code is amended to read:

1731.5. (a) After certification to the Governor as provided in this article a court may commit to the authority any person convicted of a public offense who comes within paragraphs (1), (2), and (3), or paragraphs (1), (2), and (4), below:

(1) Is found to be less than 21 years of age at the time of apprehension.

(2) Is not convicted of first-degree murder, committed when that person was 18 years of age or older, or sentenced to death, imprisonment for life, imprisonment for 90 days or less, or the payment of a fine, or after having been directed to pay a fine, defaults in the payment thereof, and is subject to imprisonment for more than 90 days under the judgment.

(3) Is not granted probation.

(4) Was granted probation and probation is revoked and terminated.

(b) The Youth Authority shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities to provide that care.

(c) Any person under the age of 21 who is not committed to the authority pursuant to this section may be transferred to the authority by the Director of Corrections with the approval of the Director of the Youth Authority. In sentencing a person under the age of 21, the court may order that the person shall be transferred to the custody of the Youth Authority pursuant to this subdivision. When the court

makes such an order and the Youth Authority fails to accept custody of the person, the person shall be returned to court for resentencing. The transfer shall be solely for the purposes of housing the inmate and allowing participation in the programs available at the institution by the inmate, who, in all other aspects shall be deemed to be committed to the Department of Corrections and shall remain subject to the jurisdiction of the Director of Corrections and the Board of Prison Terms.

The Director of the Youth Authority shall have the same powers with respect to an inmate transferred pursuant to this subdivision as if the inmate had been committed or transferred to the Youth Authority either under the provisions of the Arnold-Kennick Juvenile Court Law or subdivision (a).

The duration of the transfer shall extend until the Director of the Youth Authority orders the inmate returned to the Department of Corrections, the inmate is ordered paroled by the Board of Prison Terms, the inmate's term of imprisonment is completed as otherwise provided by law, or the inmate reaches the age of 25, whichever first occurs.

CHAPTER 702

An act to amend Sections 4701, 4704, 4711, 4712, 4712.2, and 4712.5 of, and to add Section 4704.5 to, the Welfare and Institutions Code, relating to developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 4701 of the Welfare and Institutions Code is amended to read:

4701. "Adequate notice" means a written notice informing the applicant, recipient, and authorized representative of at least all of the following:

(a) The action that the service agency proposes to take.

(b) The reason or reasons for that action.

(c) The effective date of that action.

(d) The specific law, regulation, or policy supporting the action.

(e) The responsible state agency with whom a state appeal may be filed, including the address of the state agency director.

(f) Information on availability of advocacy assistance, including referral to the state hospital or regional center clients' rights advocate, area board, publicly funded legal services corporations, and other publicly or privately funded advocacy organizations, including the protection and advocacy system required under

federal Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act.

(g) The fair hearing appeal procedure, including deadlines and access to service agency records under Article 5 (commencing with Section 4725).

(h) That if a request for a fair hearing by a recipient is postmarked or received by a service agency no later than 10 days after receipt of the notice of the proposed action mailed pursuant to subdivision (a) of Section 4710, current services shall continue as provided in Section 4715. The notice shall be in clear, nontechnical language in English. If the claimant or authorized representative does not comprehend English, the notice shall be provided in such other language as the claimant or authorized representative comprehends.

SEC. 2. Section 4704 of the Welfare and Institutions Code is amended to read:

4704. "Service agency" means any state hospital or regional center that receives state funds to provide services to persons with developmental disabilities.

SEC. 3. Section 4704.5 is added to the Welfare and Institutions Code, to read:

4704.5. For purposes of Sections 4710.9, 4711, and 4712, the director of the responsible state agency includes a designee thereof, which may, but need not, be a public or private agency that contracts with the State Department of Developmental Services for the provision of hearing officers pursuant to Section 4712.

SEC. 4. Section 4711 of the Welfare and Institutions Code is amended to read:

4711. Upon receipt of the request for fair hearing, the responsible state agency director shall immediately notify the claimant, the claimant's legal guardian or conservator, the parent of a minor claimant, the claimant's authorized representative, and the service agency director in writing of all the following:

(a) Receipt of the request for a fair hearing and of a copy of the decision of the service agency director.

(b) The time, place, and date of the fair hearing.

(c) The rights of the parties at the fair hearing pursuant to Section 4710.6.

(d) The availability of advocacy assistance pursuant to paragraph (1) of subdivision (b) of Section 4710.6.

(e) The name, address, and telephone number of the person or office designated by the director of the responsible state agency to receive requests for continuance or consolidation.

SEC. 5. Section 4712 of the Welfare and Institutions Code is amended to read:

4712. (a) The fair hearing shall be held within 20 days of the receipt of a request for fair hearing by the responsible state agency director. Either party may request a continuance, which shall be granted at the discretion of the hearing officer. Any continuance shall not extend the time for a hearing beyond 30 days of receipt of the request for the fair hearing unless it is determined that good cause exists for an additional continuance. A continuance for good

cause beyond 30 days of the receipt of the request for fair hearing shall not affect the provision of services pending a final administrative decision. For purposes of this section, good cause includes, but is not limited to, the following circumstances:

(1) Death of a spouse, parent, child, brother, sister, grandparent of the claimant or authorized representative, or legal guardian or conservator of the claimant.

(2) Personal illness or injury of the claimant or authorized representative.

(3) Sudden and unexpected emergencies, including, but not limited to, court appearances of the claimant or authorized representative, conflicting schedules of the authorized representative if the conflict is beyond the control of the authorized representative.

(4) Unavailability of a witness or evidence, the absence of which would result in serious prejudice to the claimant.

(b) Notwithstanding Sections 19130, 19131, and 19132 of the Government Code, the department shall contract for the provision of independent hearing officers. Hearing officers shall have had at least two years of full-time legal training at a California or American Bar Association accredited law school or the equivalent in training and experience as established by regulations to be promulgated by the department pursuant to Section 4705. These hearing officers shall receive training in the law and regulations governing services to developmentally disabled individuals and administrative hearings. The State Department of Developmental Services shall seek the advice of the State Council on Developmental Disabilities in the development of training materials and the implementation of training procedures by the department.

(c) The hearing officer shall not be an employee, agent, board member, or contractor of the service agency against whose action the appeal has been filed, or a spouse, parent, child, brother, sister, grandparent, legal guardian, or conservator of the claimant, or any person who has a direct financial interest in the outcome of the fair hearing, or any other interest which would preclude a fair and impartial hearing.

(d) When requested by the hearing officer, a service agency shall provide information relevant to the matter under appeal to the hearing officer prior to the fair hearing. Immediate notice of the documents provided to the hearing officer shall be mailed by the service agency to the claimant and the authorized representative, either of whom may submit additional documentation to the hearing officer prior to the hearing.

(e) The fair hearing shall be held at a time and place reasonably convenient to the claimant and the authorized representative.

(f) Merits of a pending fair hearing shall not be discussed between the hearing officer and a party outside the presence of the other party.

(g) The hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request

the disqualification of the hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be decided by the hearing officer.

(h) Both parties to the fair hearing shall have the rights specified in subdivision (a) of Section 4710.6.

(i) The fair hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer.

(j) A recording shall be made of the proceedings before the hearing officer. Any cost of recording shall be borne by the responsible state agency.

(k) The fair hearing shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, parent of a minor claimant, or authorized representative does not understand English, an interpreter shall be provided by the responsible state agency.

(*l*) The fair hearing shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed.

SEC. 6. Section 4712.2 of the Welfare and Institutions Code is amended to read:

4712.2. (a) Two or more claimants with a common complaint, or their authorized representatives, or a service agency may request the consolidation of appeals involving a common question of law or fact. The hearing officer may grant the request for consolidation if the hearing officer finds that consolidation would not result in prejudice or undue inconvenience to any party, undue delay, or a violation of any claimant's right to confidentiality unless the claimant agrees to have otherwise confidential information revealed to other claimants. Requests for consolidation shall be forwarded to the hearing officer, and postmarked within five working days of the receipt of the notice sent pursuant to Section 4711. The hearing officer shall notify the parties and authorized representatives, if any, of a request for consolidation and shall afford an opportunity for any written objections to be submitted.

(b) In all consolidated hearings, each individual claimant shall have all the rights specified in subdivision (a) of Section 4710.6. A separate written decision shall be issued to each claimant and respective authorized representatives.

SEC. 7. Section 4712.5 of the Welfare and Institutions Code is amended to read:

4712.5. (a) Within 10 days of the concluding day of the state hearing, the hearing officer shall render a written decision and shall transmit the decision to each party and to the director of the responsible state agency.

(b) The hearing officer's decision shall be in ordinary and concise language. It shall contain the following:

(1) A summary of facts, a statement of the evidence from the

proceedings which was relied on, a decision on each of the issues presented, and identification of the statutes, regulations, and policies supporting the decision. The decision shall be in ordinary and concise language.

(2) Notification that this is the final administrative decision, both parties shall be bound thereby, and either party may appeal any final administrative decision to a court of competent jurisdiction within 90 days.

SEC. 8. Sections 1 to 7, inclusive, of this act shall become operative October 1, 1983.

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 the necessity are:

In order to clarify the provisions of Chapter 16 of the Statutes of 1983 (First Extraordinary Session) which becomes operative prior to January 1, 1984, it is necessary that this act take effect immediately.

CHAPTER 703

An act to amend Sections 4004, 4152, and 12002 of the Fish and Game Code, relating to fish and game, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 4004 of the Fish and Game Code is amended to read:

4004. It is unlawful to do any of the following:

(a) Use a trap with saw-toothed or spiked jaws.

(b) Use or sell leg-hold steel-jawed traps with a spread of 5½ inches or larger without offset jaws.

(c) Use steel-jawed traps with a spread larger than 4¾ inches for taking muskrat.

(d) Set or maintain traps which do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency. No registration fee shall be charged pursuant to this subdivision.

(e) Fail to visit and remove all animals from traps once daily. This subdivision does not apply to trapping done under Section 4152 or 4180.

(f) Use a steel leg-hold trap with a spread exceeding 7½ inches or killer-type trap of the conibear type that is larger than 10 inches by 10 inches.

(g) Set or maintain steel leg-hold traps within 30 feet of bait placed in a manner or position so that it may be seen by any soaring bird. As used in this subdivision, "bait" includes any bait composed

of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.

(h) Set or maintain steel leg-hold traps with a spread of 5½ inches or larger without a tension device.

SEC. 2. Section 4152 of the Fish and Game Code is amended to read:

4152. Nongame mammals and black-tailed jackrabbits, muskrats, and red fox squirrels which are found to be injuring growing crops or other property may be taken at any time or in any manner by the owner or tenant of the premises or employees thereof, except that if leg-hold steel-jawed traps are used to take those mammals, the traps and the use thereof shall be in accordance with subdivisions (a), (b), and (d) of Section 4004. They may also be taken by officers or employees of the California Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the provisions of the Food and Agricultural Code pertaining to pests, or pursuant to the provisions of Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from the requirements of Section 3007.

SEC. 3. Section 12002 of the Fish and Game Code is amended to read:

12002. The maximum punishment for a violation constituting a misdemeanor is a fine of five hundred dollars ($500) or imprisonment in the county jail for six months, or both, except as follows:

(a) The maximum punishment for violation of any of the following provisions is a fine of one thousand dollars ($1,000) or imprisonment in the county jail for one year, or both:

(1) Section 1059.

(2) Section 2052.

(3) Sections 3511, 4700, 5050, and 5515.

(4) Subdivision (d) of Section 4004.

(5) Sections 4600 to 4606, inclusive.

(6) Subdivision (a) or (b) of Section 5650.

(7) Section 8670.

(8) Section 10500.

(b) The maximum punishment for violation of any of the following provisions is a fine of two thousand dollars ($2,000) or imprisonment in the county jail for one year, or both:

(1) Section 3005.9.

(2) A violation of commission regulations which is discovered pursuant to Section 3005.91 or 3005.92.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit cities to take designated mammals in accordance with this act, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 704

An act to amend Sections 23010.3, 66485, and 66486 of the Government Code, relating to local agencies.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 23010.3 of the Government Code is amended to read:

23010.3. Upon adoption of an authorizing resolution by the board of supervisors, in connection with the construction of any sanitary sewer, storm sewer, or drainage improvements, a county may expend any of its available funds for any additional cost of construction of any conveyance works in excess of the construction required for the current project, or for a portion of the cost of conveyance works directly benefiting properties in an area outside the area to be served by the current project, if the board of supervisors first finds and declares in that resolution, that there is an area outside the area to be served by the current project which may in the future utilize the conveyance works; that additional construction of conveyance works for the current project is necessary to serve the outside area in the future; and that the board of supervisors will have the right in the future to use, or to permit the use of, the conveyance works and the additional construction which will benefit the outside area. In lieu of a county contribution of funds for additional construction or for a portion of the cost of the conveyance works where an outside area is directly benefited, the board of supervisors may agree to reimburse, from future connection fees, any entity or person described in subdivisions (a) to (g), inclusive.

The provisions of this section shall be applicable in cases in which improvements are to be constructed by any of the following:

(a) A county pursuant to the "The Improvement Act of 1911," Division 7 (commencing with Section 5000) of the Streets and Highways Code.

(b) A county pursuant to the "Municipal Improvement Act of 1913," Division 12 (commencing with Section 10000) of the Streets and Highways Code.

(c) A county in any other manner.

(d) Any district which is governed by the board of supervisors of the county in which the work is to be performed.

(e) Any district, not governed by the board of supervisors of the county in which the work is to be performed, with which the board of supervisors has contracted so as to assure the right of the county to use the conveyance works and the additional construction, for the future benefit of the outside area.

(f) Any incorporated city with which the board of supervisors has contracted so as to assure the right of the county to use the conveyance works and the additional construction, for the future benefit of the outside area.

(g) Any person, if the works when completed are to be dedicated or conveyed to the county or to a district governed by the board of supervisors of the county in which the work is to be performed.

The board of supervisors may impose a connection fee upon any person or district in the outside area to be paid to the county as a condition to connecting to any conveyance works which have been augmented by additional construction, or which have been found by the board of supervisors to directly benefit the outside area, pursuant to this section. The connection fee shall be a prorated share of the total cost of the additional construction, or of the portion of the costs of the conveyance works where an outside area is directly benefited. The fee may include a reasonable amount for administrative costs associated with the collection of the fee and to provide reimbursement to an entity or person described in subdivisions (a) to (g), inclusive. In computing the total cost of the additional construction, or of the portion of the costs of the conveyance works where an outside area is directly benefited, the board of supervisors shall include an amount attributable to interest from the date of completion of the construction to the date of connection and, in the event the board of supervisors agrees to reimburse, from future connection fees, any entity or person described in subdivisions (a) to (g), inclusive, all accrued interest shall be payable to that entity or person.

This section shall not decrease or limit any other power vested in counties or boards of supervisors.

SEC. 2. Section 66485 of the Government Code is amended to read:

66485. There may be imposed by local ordinance a requirement that improvements installed by the subdivider for the benefit of the subdivision shall contain supplemental size, capacity, number, or length for the benefit of property not within the subdivision, and that those improvements be dedicated to the public. Supplemental length may include minimum sized offsite sewer lines necessary to reach a sewer outlet in existence at that time.

SEC. 3. Section 66486 of the Government Code is amended to read:

66486. In the event of the installation of improvements required by an ordinance adopted pursuant to Section 66485, the local agency shall enter into an agreement with the subdivider to reimburse the subdivider for that portion of the cost of those improvements, including an amount attributable to interest, in excess of the construction required for the subdivision.

CHAPTER 705

An act to amend Sections 7901, 7902, 7905, 7906, 7909, and 7912 of, to add Sections 7904, 7914, and 7915 to, and to repeal Section 7904 of, the Labor Code, relating to amusements.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 7901 of the Labor Code is amended to read:

7901. As used in this part:

(a) "Amusement ride" means a mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" does not include slides, playground equipment, coin-operated devices or conveyances which operate directly on the ground or on the surface or pavement directly on the ground or the operation of amusement devices of a permanent nature. The division shall determine the specific devices which are amusement rides for the purposes of this part. This determination shall be made to apply equally to all operators of similar or identical rides and shall be made pursuant to a procedure promulgated by the standards board.

(b) "Operator" or "owner" means a person who owns or controls or has the duty to control the operation of an amusement ride. It includes the state and every state agency, and each county, city, district, and all public and quasi-public corporations and public agencies therein.

(c) "Permit" means a document issued by the division which indicates that an inspection of the ride has been performed pursuant to rules and regulations adopted by the division.

SEC. 2. Section 7902 of the Labor Code is amended to read:

7902. The division shall promulgate and formulate rules and regulations for adoption by the Occupational Safety and Health Standards Board for the safe installation, repair, maintenance, use, operation, and inspection of all amusement rides as the division finds necessary for the protection of the general public using amusement rides. The rules and regulations shall be in addition to the existing applicable safety orders and will be concerned with engineering force stresses, safety devices, and preventative maintenance. Nothing in this chapter shall limit the authority of the division to prescribe or enforce general or special safety orders.

SEC. 3. Section 7904 of the Labor Code is repealed.

SEC. 4. Section 7904 is added to the Labor Code, to read:

7904. (a) The division may fix and collect fees for the inspection of amusement rides that it deems necessary to cover the actual cost of having the inspection performed by a division safety engineer.

The division may not charge for inspections performed by certified insurance inspectors or an inspector for a public entity, but may charge a fee of not more than ten dollars ($10) to cover the cost of processing the permit when issued by the division as a result of the inspection.

(b) The division shall annually prepare and submit to the Division of Fairs and Expositions within the Department of Food and Agriculture, a report summarizing all inspections of amusement rides and accidents occurring on amusement rides. This annual report shall also contain all route location information submitted to the division by permit applicants.

SEC. 5. Section 7905 of the Labor Code is amended to read:

7905. The division may hire inspectors to inspect amusement rides. The division shall cause the inspection provided by this part to be made by its safety inspectors, or by a qualified inspector who is approved by the division and employed by an insurance company or a public entity.

SEC. 6. Section 7906 of the Labor Code is amended to read:

7906. No person shall operate an amusement ride without a permit issued by the division or a public entity. On or before March 1 of each year an operator shall apply for a permit to the division or a public entity on a form furnished by the division and containing such information as the division may require. Each application shall specifically include a route list for the ride for the permit year, which shall include the name of each town or city, street location, and dates of operation of the ride at each location. A route list may be revised at any time, but a ride may not be operated at a particular location unless notification of the revision has been given previously to the division or public entity issuing the permit.

All amusement rides shall be inspected before they are originally put into operation for the public's use and thereafter at least once every year, unless authorized to operate on a temporary permit. Amusement rides may also be inspected each time they are disassembled and reassembled.

SEC. 7. Section 7909 of the Labor Code is amended to read:

7909. The division may order cessation of operation of an amusement ride and permit revocation if it has been determined after inspection to be hazardous or unsafe. Operation shall not resume until such conditions are corrected to the satisfaction of the division

SEC. 8. Section 7912 of the Labor Code is amended to read:

7912. No person shall operate an amusement ride unless at the time there is in existence a policy of insurance in an amount of not less than five hundred thousand dollars ($500,000) insuring the owner or operator against liability for injury suffered by persons riding the amusement ride.

SEC. 9. Section 7914 is added to the Labor Code, to read:

7914. (a) Each operator of an amusement ride shall report or cause to be reported to the division immediately by telephone each

known incident where maintenance, operation, or use of the amusement ride results in a fatality or injury to any person unless the injury does not require medical service other than ordinary first aid treatment. If a fatality or injury is caused by the failure or malfunction of an amusement ride, the equipment or conditions that caused the accident shall be preserved for the purpose of investigation by the division.

(b) Whenever a state, county, or local fire or police agency is called to an accident involving an amusement ride covered by this part in which a serious injury or illness, or death occurs, the nearest office of the division shall be notified by telephone immediately by the responding agency.

SEC. 10. Section 7915 is added to the Labor Code, to read:

7915. (a) Any owner or operator of any amusement ride who fails to comply with any provision of this part or any rule, regulation or safety order adopted pursuant to this part shall be guilty of a misdemeanor.

(b) Whenever an owner or operator of any amusement ride fails to pay any fee required under Section 7904 within 60 days after notification, the owner or operator shall pay, in addition to the fee required, a penalty fee equal to 100 percent of the required fee. For purposes of this section, the date of the invoice shall be considered the date of notification.

(c) The division shall not issue any permit to any owner or operator of any amusement ride who fails to pay any fee required by Section 7904 or any penalty fee required by subdivision (b) until the fees are paid.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 706

An act to amend Sections 18060.5, 18062.2, and 19982 of the Health and Safety Code, relating to mobilehomes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 18060.5 of the Health and Safety Code is amended to read:

18060.5. With respect to business practices, it is unlawful to do any of the following:

(a) Knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured home, mobilehome, or commercial coach.

(b) Violate any of the terms or provisions of regulations promulgated under the authority of Section 18015.

(c) Cause 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 any person in the sale or purchase of a manufactured home, mobilehome, or commercial coach or parts or accessories thereof.

(d) Violate 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.

(e) Move a manufactured home, mobilehome, or commercial coach subject to registration pursuant to this part from a mobilehome park or other site of installation to another location without obtaining from the legal owner written, consent for the move as prescribed in Section 18082.

(f) Include as an added cost to the selling price of a manufactured home, mobilehome, or commercial coach, an amount for licensing or transfer of title of the manufactured home, mobilehome, or commercial coach, which amount is not due to the state unless, prior to the sale, the amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of those fees. However, a dealer may collect from the second purchaser of a manufactured home, mobilehome, or commercial coach, a prorated fee based upon the number of months remaining in the registration year for that manufactured home, mobilehome, or commercial coach, if the manufactured home, mobilehome, or commercial coach was previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this part and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the manufactured home, mobilehome, or commercial coach.

(g) Participate in the sale of a manufactured home, mobilehome, or commercial coach reported to the Department of Motor Vehicles under the provisions of Section 5900 of the Vehicle Code or to the department pursuant to this part without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(h) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes, mobilehomes, or commercial coaches.

(i) Display for sale, offer for sale, or sell, a manufactured home, mobilehome, or commercial coach, representing that manufactured home, mobilehome, or commercial coach to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed manufactured home, mobilehome, or commercial coach.

(j) Directly or indirectly authorize or advise another licensee to change the year model of a manufactured home, mobilehome, or commercial coach in the inventory of the other licensee.

SEC. 2. Section 18062.2 of the Health and Safety Code is amended to read:

18062.2. It is also unlawful for a dealer to do any of the following:

(a) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business.

(b) Employ any person as a salesperson who is not licensed pursuant to this part, or whose license is not displayed on the premises of the dealer as provided in Section 18063.

(c) Permit the use of his or her dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of manufactured homes, mobilehomes, or commercial coaches required to be registered under this code, or to permit the use of the dealer's license, supplies, or books to operate a branch location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the manufactured homes, mobilehomes, or commercial coaches sold by, or the business of, or branch location used by, the person, or has no such interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the dealer's license, supplies, or books to engage in the sale of manufactured homes, mobilehomes, or commercial coaches.

(d) Advertise any specific manufactured home, mobilehome, or commercial coach for sale without identifying the manufactured home, mobilehome, or commercial coach by its serial number.

(e) Advertise the total price of a manufactured home, mobilehome, or commercial coach without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, title and registration fees, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(f) Exclude from the advertisement of a manufactured home, mobilehome, or commercial coach for sale information to the effect that there will be added to the advertised total price at the time of sale, charges for sales tax, title and registration fees, escrow fees, and any dealer documentary preparation charge.

(g) Represent the dealer documentary preparation charge as a governmental fee.

(h) Refuse to sell the manufactured home, mobilehome, or commercial coach to any person at the advertised total price for that

manufactured home, mobilehome, or commercial coach, exclusive of sales tax, title fee, finance charges, and dealer documentary preparation charge, which charge shall not exceed twenty dollars ($20), while it remains unsold, unless the advertisement states the advertised total price is good only for a specified time and that time has elapsed.

(i) Not post the salesperson's license in a place conspicuous to the public on the premises where they are actually engaged in the selling of manufactured homes, mobilehomes, and commercial coaches for the employing dealer. The license shall be displayed continuously during their employment. If a salesperson's employment is terminated, the dealer shall return the license to the salesperson.

(j) Offer for sale, rent, or lease within this state a new manufactured home, mobilehome, or commercial coach whose manufacturer is not licensed under this part.

SEC. 3. Section 19982 of the Health and Safety Code is amended to read:

19982. (a) The department by rule and regulation shall establish a schedule of fees to pay the costs incurred by the department for the work related to administration and enforcement of this part. Notwithstanding Section 13340 of the Government Code, the fees collected shall be placed in the Mobilehome-Manufactured Home Revolving Fund established by Section 18016.5, and are continuously appropriated to the department for expenditure in carrying out the provisions of this part.

(b) The total money collect pursuant to this part and contained in the Mobilehome-Manufactured Home Revolving Fund on June 30 of each fiscal year shall not exceed the amount needed for operating expenses for one year for the enforcement of this part. If the total money collected pursuant to this part in the fund exceeds this amount, the department shall make appropriate reductions in the schedule of fees authorized by this section.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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 prevent unfair advertising practices that adversely affect consumers and other dealers, it is necessary that the act take effect immediately.

CHAPTER 707

An act to amend Section 216 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 216 of the Streets and Highways Code is amended to read:

216. The noise level produced by the traffic on, or by the construction of, a state freeway shall be measured in the classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services of a public or private elementary or secondary school if the rooms or spaces (a) were constructed prior to the award of the initial construction contract for the freeway route and prior to January 1, 1974, or (b) were constructed after December 31, 1973, and were constructed prior to the issuance of a statement of present and projected noise levels of the freeway route by the department pursuant to subdivision (g) of Section 65302 of the Government Code, and (c) are being used for the purpose for which they were constructed.

The measurements shall be made at appropriate times during regular school hours and shall not include noise from sources that exceed the maximum permitted by law.

If the noise level produced from the freeway traffic, or the construction of the freeway, exceeds 55dBA, L10, or 52dBA, Leq., the department shall undertake a noise abatement program in any such classroom, library, multipurpose room, or space used for pupil personnel services to reduce the freeway traffic noise level therein to 55dBA, L10, or 52dBA, Leq., or less, by, but not limited to, installing acoustical materials, eliminating windows, installing air conditioning, or constructing sound baffle structures.

If the department determines that the construction of the freeway will result in a noise level exceeding 55dBA, L10, or 52dBA, Leq., the department shall complete the temporary or permanent noise abatement program prior to commencing such construction, or as soon as practicable thereafter.

If it becomes necessary to convert the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services to other school-related purposes because the freeway traffic noise level therein exceeds 55dBA, L10, or 52dBA, Leq., the department shall pay the cost of the conversions.

If the noise level generated from sources within and without the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services exceeds 55dBA, L10, or 52dBA, Leq. prior to construction of the freeway and the noise from the freeway, or the

construction thereof, also exceeds 55dBA, L10, or 52dBA, Leq., the department shall be required to undertake a noise abatement program that will reduce the noise to its preconstruction level.

Priority for noise abatement programs shall be given to those public and private elementary and secondary classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services constructed in conformance with Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 of Division 3 of Title 2 of the Education Code.

As used in this section, dBA means decibels measured by the "A" weighting described in Section 3.1 of the American National Standard specification for sound level meters, S1.4-1971, approved April 27, 1971, and published by the American National Standards Institute. L10 is the sound level that is exceeded 10 percent of the time for the period under consideration and is a value which is an indicator of both the magnitude and frequency of occurrence of the loudest noise events. Leq. is the equivalent steady state sound which in a stated period of time would contain the same acoustic energy as the time-varying sound level during the same time period.

CHAPTER 708

An act to amend Sections 5011, 5014, 5015, 5016.5, 9261, 12804, 21715, 26305, and 29003 of, and to add Section 617 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 617 is added to the Vehicle Code, to read:

617. A "tow dolly" is a vehicle towed by a motor vehicle and designed and used exclusively to transport another motor vehicle and upon which the front or rear wheels of the towed motor vehicle are mounted, while the other wheels of the towed motor vehicle remain in contact with the ground. "Tow dolly" does not include a portable or collapsible dolly used as specified in Section 4014.

SEC. 2. Section 5011 of the Vehicle Code is amended to read:

5011. Every piece of special construction equipment, special mobile equipment, cemetery equipment, every tow dolly, and every logging vehicle shall display an identification plate attached thereto.

SEC. 3. Section 5014 of the Vehicle Code is amended to read:

5014. An application by a person other than a manufacturer or dealer for an identification plate for special construction equipment, cemetery equipment, special mobile equipment, tow dolly, or logging vehicle shall include the following:

(a) A statement by the owner of the use or uses which he intends

to make of the equipment.

(b) A description of the vehicle, including any distinctive marks or features.

(c) A photograph of the vehicle. Only one photograph of one piece of equipment shall be required to be attached to the application when identification plates are to be obtained for more than one piece of equipment, each of which is of the same identical type.

(d) Such other information as may reasonably be required by the department to determine whether the applicant is entitled to be issued an identification plate.

SEC. 4. Section 5015 of the Vehicle Code is amended to read:

5015. The application for an identification plate for special construction equipment, special mobile equipment, cemetery equipment, any tow dolly, and any logging vehicle shall be made before any such piece of equipment is moved over a highway.

SEC. 5. Section 5016.5 of the Vehicle Code is amended to read:

5016.5. (a) The department may issue a special identification plate or other suitable device to a manufacturer or dealer of special construction equipment, special mobile equipment, cemetery equipment, tow dolly, or logging vehicle upon payment of the fee specified in Section 9261. The identification plate or other suitable device 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 special construction equipment, special mobile equipment, cemetery equipment, any tow dolly, or any logging vehicle, may operate or move such equipment or vehicle upon the highways during the delivery of or during the demonstration for the sale of such piece of equipment or vehicle upon condition that any such equipment or vehicle display thereon an identification plate or other suitable device issued to such manufacturer or dealer; provided, that special permits have been obtained in accordance with the provisions of Article 6 (commencing with Section 35780) of Chapter 5 of Division 15 for the operation or movement of any such equipment or vehicle of a size, weight, or load exceeding the maximum specified in this code.

SEC. 6. Section 9261 of the Vehicle Code is amended to read:

9261. A service fee of five dollars ($5) shall be paid for an identification plate for special construction equipment, cemetery equipment, mobile equipment, tow dollies, and logging vehicles. Publicly owned special construction equipment, cemetery equipment, special mobile equipment, tow dollies, and logging vehicles are exempt from the service charge.

SEC. 7. Section 12804 of the Vehicle Code is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and

directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation. Any physical defect of the applicant, which, in the opinion of the department, is compensated to insure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any three-axle vehicle weighing less than 6,000 pounds gross, any two-axle vehicle, any three-axle housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, including when a tow dolly is used between the towing vehicle and a towed motor vehicle, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach not exceeding 9,000 pounds gross or a trailer or semitrailer not exceeding 9,000 pounds gross designed and used exclusively for hauling livestock, or a trailer not exceeding 9,000 pounds gross used to transport agricultural products from a farm to a processing or handling point, or a trailer transporting a boat not exceeding 9,000

pounds gross, when the hauling of livestock or agricultural products or the towing of boats is not for compensation, or any schoolbus, school pupil activity bus, youth bus or farm labor vehicle, as specified in paragraph (1) of subdivision (d), except any other bus, two-wheel motorcycle, or two-wheel motor-driven cycle.

(4) Class 4. Any two-wheel motorcycle, any two-wheel motor-driven cycle, or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2, or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 driver's licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration is in the licensee's immediate possession which has been issued within two years of the date of the operation of that vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed.

(d) (1) A class 3 license shall be valid for operating any schoolbus, school pupil activity bus, youth bus, or farm labor vehicle when a special driver's certificate to permit the operation of those vehicles is also in the immediate possession of the licensee. A class 3 license shall also be valid for operating any of those vehicles with no passengers aboard while receiving behind-the-wheel driver training from a person having in his or her immediate possession a special driver's certificate to permit the operation of the vehicle.

(2) A special driver certificate for the operation of a schoolbus, school pupil activity bus, youth bus, or farm labor vehicle shall not be valid unless the driver has, in his or her immediate possession, a medical certificate issued within the past two years.

(e) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when the certificate is issued by an employer of the applicant, provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when the certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties, provided the applicant has also met the other examination requirements for the license for which he or she is applying.

(g) Notwithstanding subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on that license.

(h) Drivers of vanpool vehicles, may operate with class 3 licenses,

but shall possess evidence of a medical examination required for a class 2 license when operating vanpool vehicles. The driver shall keep in the vanpool vehicle a statement signed under penalty of perjury that he or she has not been convicted of reckless driving, drunk driving, or a hit and run offense in the last five years in order to be eligible to drive the vanpool vehicle.

SEC. 8. Section 21715 of the Vehicle Code is amended to read:

21715. (a) No passenger vehicle regardless of weight, or any other motor vehicle under 4,000 pounds unladen, shall draw or tow more than one vehicle in combination, except that an auxiliary dolly or tow dolly may be used with the towed vehicle.

(b) No motor vehicle under 4,000 pounds unladen shall tow any vehicle weighing 6,000 pounds or more gross.

SEC. 9. Section 26305 of the Vehicle Code is amended to read:

26305. Any auxiliary dolly or tow dolly may be equipped with brakes.

SEC. 10. Section 29003 of the Vehicle Code is amended to read:

29003. (a) Every hitch or coupling device used as a means of attaching the towed and towing vehicles shall be properly and securely mounted and be structurally adequate for the weight drawn. The mounting of the hitch or coupling device on the towing and towed vehicle shall include sufficient reinforcement or bracing of the frame to provide sufficient strength and rigidity to prevent undue distortion of the frame.

(b) The drawbar, tongue, or other connection between the towing and towed vehicles shall be securely attached and structurally adequate for the weight drawn.

(c) The raised end of any motor vehicle being transported by another motor vehicle using a tow dolly shall be secured to the tow dolly by two separate chains, cables, or equivalent devices adequate to prevent shifting or separation of the towed vehicle and the tow dolly.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 709

An act to amend Sections 3062 and 3066 of the Vehicle Code, relating to vehicle dealers.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 3062 of the Vehicle Code is amended to read:

3062. (a) Except as otherwise provided in subdivision (b), in the event that a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line-make is then represented, or relocating an existing motor vehicle dealership, the franchisor shall in writing first notify the board and each franchisee in that line-make in the relevant market area of the franchisor's intention to establish an additional dealership or to relocate an existing dealership within or into that market area. Within 20 days of receiving that notice or within 20 days after the end of any appeal procedure provided by the franchisor, any such franchisee may file with the board a protest to the establishing or relocating of the dealership. If within this time a franchisee files with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant an additional 10 days to file the protest. When such a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

For the purposes of this section, the reopening in a relevant market area of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

(b) With respect to the relocation of an existing dealership, subdivision (a) does not apply to any relocation which is less than one mile from the existing location of the dealership and which is to a location within the same relevant market area within the same city where the existing dealership is located.

(c) Subdivision (a) does not apply to the establishment of a branch office for selling vehicles at a fair, exposition, or similar exhibit that does not exceed 30 days.

SEC. 2. Section 3066 of the Vehicle Code is amended to read:

3066. (a) Upon receiving a notice of protest pursuant to Section 3060, 3062, 3064, or 3065, the board shall fix a time, which shall be within 60 days of the order, and place of hearing, and shall send by registered mail a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups which have requested notification by the board of protests and decisions of the board.

Except in any case involving a franchisee who deals exclusively in motorcycles, the board or its secretary may, upon a showing of good cause, accelerate or postpone the date initially established for a hearing, but in no event shall the hearing be rescheduled more than 90 days after the board's initial order. For the purpose of accelerating or postponing a hearing date, "good cause" includes, but is not limited to, the effects upon, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted. The board, or a hearing officer designated by the board, shall hear and consider the oral and documented evidence introduced by the parties and other interested individuals and groups, and the board shall make its decision solely on the record so made. Sections 11507.6, 11507.7, except subdivision (c), 11510, 11511, 11513, 11514, 11515, and 11517 of the Government Code apply to these proceedings.

(b) In any hearing on a protest filed pursuant to Section 3060 or 3062, the franchisor shall have the burden of proof to establish that there is good cause to modify, replace, terminate, or refuse to continue a franchise. The franchisee shall have the burden of proof to establish that there is good cause not to enter into a franchise establishing or relocating an additional motor vehicle dealership.

(c) In any hearing on a protest filed pursuant to Section 3064 or 3065, the franchisee shall have the burden to establish that the schedule of compensation or the warranty reimbursement schedule is not reasonable.

(d) A member of the board who is a new motor vehicle dealer may participate in, hear, comment, or advise other members upon, but may not decide, any matter involving a protest filed pursuant to this article. Dealer participation shall be recorded in the minutes of the meeting.

CHAPTER 710

An act to add Section 4578 to the Public Resources Code, relating to forestry.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 4578 is added to the Public Resources Code, to read:

4578. Timber operations, timber harvesting, and any other activities pursuant to a timber harvest plan or a federal or state timber sales contract are exempt from the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and no license shall be required for the conduct of

timber operations on private or public lands, other than as provided in Section 4571.

CHAPTER 711

An act to amend Section 2112 of, and to add Section 2116 to, the Unemployment Insurance Code, and to amend Section 11483 of the Welfare and Institutions Code, relating to benefits fraud.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. The Legislature finds and declares that the misdemeanor penalties of the Unemployment Insurance Code are inadequate for a certain type of disability insurance fraud, and intends by this act to provide for felony prosecution of individuals who falsely certify the medical condition of any person in order to defraud the state disability insurance program.

SEC. 2. Section 2112 of the Unemployment Insurance Code is amended to read:

2112. Unless otherwise specified in subdivision (b) of Section 2101 or in Section 2114, 2115, or 2116, every person who willfully violates any provision of this division or any authorized regulation promulgated or published in accordance with this division, is guilty of a misdemeanor.

SEC. 3. Section 2116 is added to the Unemployment Insurance Code, to read:

2116. Any individual who, with the intent to defraud, falsely certifies the medical condition of any person in order to obtain disability insurance benefits in an aggregate amount of four hundred dollars ($400) or more, whether for the maker or for any other person, is punishable by imprisonment in the county jail for a period not to exceed one year, or in the state prison, or by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 4. Section 11483 of the Welfare and Institutions Code is amended to read:

11483. Whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child not in fact entitled thereto, the person obtaining the aid shall be punished as follows:

(1) If the amount obtained or retained is four hundred dollars ($400) or less, by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars ($500), or by both such imprisonment and fine.

(2) If the amount obtained or retained is more than four hundred

dollars ($400), by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

When the allegation is limited to failure to report not more than two thousand dollars ($2,000) of income or resources, or the failure to report the presence of an additional person or persons in the household, all actions necessary to secure restitution shall be brought against persons in violation of this section as provided in Sections 12250 and 12850. Such action for restitution may be satisfied by sending a registered letter requesting restitution to the last address at which the person was receiving public assistance.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 712

An act to amend Section 12389 of the Insurance Code, relating to underwritten title companies.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the

preceding calendar year in all counties where the company is licensed to transact business.

Number of documents	Amount of required minimum net worth
Less than 50,000	$ 75,000
50,000 to 100,000	120,000
100,000 to 500,000	200,000
500,000 to 1,000,000	300,000
1,000,000 or more	400,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the aggregate value of all other assets.

Where a title plant of an underwritten title company is not being currently maintained, the asset value of such plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which such plant is currently maintained, less 1/10th thereof for each succeeding year or part thereof that such plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to such plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of such data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided such owner is contractually entitled to receive a copy of the title record data contained in such jointly used title plant system during the period of such owner's participation therein, either periodically or upon termination of such participation, at a cost not to exceed the actual cost of duplication of such title record data.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to

possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred dollars ($300). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one hundred seventy-five dollar ($175) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). Such audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant whose certification or license is in good standing at the time of the preparation. The fee for filing the audit shall be two hundred sixty-five dollars ($265).

The commissioner may refuse to accept an audit or order a new audit for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license;

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective;

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant; or

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) All funds deposited with the company in connection with any escrow shall be deposited in a bank or savings and loan association in a separate trust account, and such funds shall be the property of the person or persons entitled thereto under the provisions of the escrow and segregated escrow by escrow in the records of the company. Such funds shall not be subject to any debts of the company and shall be used only to fulfill the terms of the individual escrow under which the funds were accepted and none of such funds shall be used until all conditions of the escrow have been met.

Bona fide drafts executed by persons fully responsible financially may at the option of the company, be deemed the equivalent of funds already cleared into such bank or savings and loan association deposit unless another law of this state prohibits such persons from tendering such drafts to escrow holders for the purpose of closing escrows.

Any interest received on funds deposited with the company in connection with any escrow which are deposited in a bank or savings and loan association shall be paid over to the depositing party to the escrow and shall not be transferred to the account of the company.

(2) It shall maintain record of all receipts and disbursements of escrow funds.

(3) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the passage of such four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year

period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. The fee for filing an application for a change of name shall be one hundred dollars ($100). Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 713

An act to add Section 50523 to the Health and Safety Code, relating to mobilehome parks.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 50523 is added to the Health and Safety Code, to read:

50523. (a) Upon the application for assistance from two-thirds of the owners of mobilehomes in the mobilehome park, the department shall provide comprehensive technical assistance to the residents seeking to purchase the mobilehome park in which they reside. The assistance may include, but shall not be limited to, aiding the residents to secure proper permits, assisting in the formation of a residents' organization to take title to the mobilehome park, and providing advisory assistance in mobilehome park management. To the extent that its technical assistance resources are limited, the department shall give priority to requests for assistance from residents who are persons and families of low or moderate income as defined in Section 50093.

(b) In providing comprehensive technical assistance under subdivision (a), the department shall, to the extent feasible, ensure that its assistance does not result in the displacement of persons or families living in a mobilehome park intended for purchase by its residents.

(c) The department shall publicize the services described in subdivision (a) by any means reasonably calculated to notify mobilehome park residents of their availability.

(d) The department may charge the residents of a mobilehome park fees for providing the services described in subdivision (a). The fees shall not exceed the actual costs to the department for providing these services.

(e) Upon receipt of a request for termination of assistance by two-thirds of the owners of mobilehomes in the mobilehome park, the department shall cease providing technical assistance to that park.

(f) In no case shall assistance provided by the department to the residents of a mobilehome park extend beyond one year of the close of escrow for the mobilehome park purchased pursuant to this section.

CHAPTER 714

An act to add Section 17403.1 to the Welfare and Institutions Code, relating to county aid.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 17403.1 is added to the Welfare and Institutions Code, to read:

17403.1. Notwithstanding the provisions of Section 17403, the county claim for reimbursement of aid extended to the indigent shall be offset as provided herein in cases where: (1) the indigent is represented by an attorney at law or other authorized representative in connection with a denial of, or termination of, Supplemental Security Income benefits with state supplementation under the provisions of Title XVI of the federal Social Security Act and Chapter 3 (commencing with Section 12000) of Part 3; and (2) the county receives the indigent's initial payment of these benefits pursuant to an interim assistance reimbursement agreement authorized by Section 1631 (g) of the federal Social Security Act.

The amount of offset reducing the county claim in these instances shall be paid to the representative by the county as a representation fee. The county, by appropriate enactment of the board of supervisors, may elect to be exempted from the mandatory obligation to pay representation fees under this section, but the county shall retain the authority, despite such election, to pay a representation fee in such instances as the county may deem appropriate. Any representation fee paid pursuant to this section shall not be recoverable from the indigent or the indigent's estate.

The representation fee shall be a fixed percentage of the interim assistance reimbursement received by the county equal to the lesser of (1) 25 percent; or (2) the percentage obtained by dividing any representation fee to be paid by the indigent as authorized under federal law by the net benefits paid to the indigent by the county after interim assistance reimbursement and multiplying the quotient by 100.

For purposes of this section, an "authorized representative" shall mean an individual who has met the requirements set forth in Title XVI of the federal Social Security Act and regulations promulgated thereunder.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 715

An act to repeal and add Section 14860 to the Financial Code, and to amend Section 1752.8 of the Welfare and Institutions Code, relating to trusts.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 14860 of the Financial Code is repealed.

SEC. 2. Section 14860 is added to the Financial Code, to read:

14860. Except as provided in subdivision (a) and (b), no credit union shall exercise trust powers except upon qualifying as a trust company pursuant to Division 1 (commencing with Section 99).

(a) Notwithstanding any other provisions of law relating to trusts and trust authority, subject to the regulations of the commissioner, a credit union may act as a trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States which is a part of a pension plan for its members or groups or organizations of its members, which qualifies or has qualified for specific tax treatment under subsection (d) of Section 401 or Section 408 of the Internal Revenue Code, Title 26 of the United States Code, provided the funds received pursuant to these plans are invested in share accounts or share certificate accounts of the credit union. All funds held by a credit union trustee or in a custodial capacity shall be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over such trust or custodial accounts. The credit union shall maintain individual records for each participant or beneficiary which show in detail all transactions relating to the funds of each participant or beneficiary.

The trust instrument or agreement shall provide for the appointment of a successor trustee or custodian by a person, committee, corporation, or organization other than the credit union or any person acting in his or her capacity as a director, employee, or agent of the credit union, upon notice from the credit union or the commissioner that the credit union is unwilling or unable to continue to act as trustee or custodian.

(b) A credit union may accept funds held in trust in the name of a trustee, as such, for a specified beneficiary whose residence shall be disclosed to the credit union by the trustee.

SEC. 3. Section 1752.8 of the Welfare and Institutions Code is amended to read:

1752.8. The Director of the Youth Authority may deposit any funds of wards committed to the authority in the director's

possession in trust with the Treasurer pursuant to Section 16305.3 of the Government Code or in trust in insured bank, savings and loan, or state or federal credit union accounts bearing interest at rates up to the maximum permitted by law, and for the purpose of deposit only, may mingle the funds of any ward with the funds of other wards.

Such funds together with the interest paid thereon may be paid over to the ward upon his or her request, and shall be paid over to the ward upon his or her discharge from the Youth Authority.

Notwithstanding the provisions of this section and Section 1752.81, the Youth Authority may assess a ward's trust fund for actual costs for the ward's support, maintenance, training and treatment.

CHAPTER 716

An act to add Section 11356.5 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 11356.5 is added to the Health and Safety Code, to read:

11356.5. Any person convicted of a violation of Section 11351, 11352, or 11379.5 who, as part of the transaction for which he or she was convicted, has induced another to violate Section 11351, 11352, or 11379.5, shall be punished by an additional one year in prison if the value of the controlled substance involved in the transaction for which the person was convicted exceeds five hundred thousand dollars ($500,000), by an additional two years in prison if the value of the controlled substance involved in the transaction for which the person was convicted exceeds two million dollars ($2,000,000), or by an additional three years in prison if the value of the controlled substance involved in the transaction for which the person was convicted exceeds five million dollars ($5,000,000). For purposes of this section, "value of the controlled substance" means the retail price to the user.

CHAPTER 717

An act to amend Sections 12505, 12561, 12601, 12604, 12606, 12607, 12610, 12614, 12615, 12642, 12671, and 12673 of, and to amend the heading of Chapter 1 (commencing with Section 12501) of Division 7 of, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. The heading of Chapter 1 (commencing with Section 12501) of Division 7 of the Food and Agricultural Code is amended to read:

CHAPTER 1. PRODUCE CARRYING PESTICIDE RESIDUE

SEC. 2. Section 12505 of the Food and Agricultural Code is amended to read:

12505. " Pesticide residue" means any pesticide chemical which is added to produce.

SEC. 3. Section 12561 of the Food and Agricultural Code is amended to read:

12561. The director by regulation may establish permissible tolerances for any pesticide chemical in or on produce if he or she finds each of the following:

(a) The pesticide chemical is useful for the production and marketing of the produce.

(b) The presence of the pesticide chemical as pesticide residue in quantities within the tolerances so established is not deleterious to the health of man or animals.

SEC. 4. Section 12601 of the Food and Agricultural Code is amended to read:

12601. The director may seize and hold any lot of produce which carries or shows indication of pesticide residue or other added deleterious ingredients or which the director suspects of carrying the residue or deleterious ingredients.

SEC. 5. Section 12604 of the Food and Agricultural Code is amended to read:

12604. Any lot of produce which is seized and held pursuant to this article, unless previously analyzed by the director, shall be sampled and analyzed within 24 hours after the seizure for the purpose of determining the amount of pesticide residue on it. The owner or bailee of the produce shall be immediately notified in person or by telegram by the director that the analysis of the sample shows that the lot of produce does or does not carry pesticide residue or other added deleterious ingredients in excess of the maximum quantity or permissible tolerance which is established pursuant to this chapter.

SEC. 6. Section 12606 of the Food and Agricultural Code is amended to read:

12606. If the seized and held lot, as determined by the director's chemical analysis, does not carry pesticide residue in excess of any maximum which is provided by this chapter or in excess of a

permissible tolerance, the director shall forthwith release the seized and held lot from the seizure and remove the hold order or tag.

SEC. 7. Section 12607 of the Food and Agricultural Code is amended to read:

12607. If the seized and held lot of produce is found to carry pesticide residue in excess of any maximum which is provided by this chapter or in excess of a permissible tolerance, the director shall, upon request of the owner, permit the lot of produce to be reconditioned or disposed of for byproducts purposes which may lawfully contain the pesticide residue found.

SEC. 8. Section 12610 of the Food and Agricultural Code is amended to read:

12610. If the lot of produce which is seized and held is found to carry excess pesticide residue, the owner or bailee of the lot may appeal the result of the examination to the director by letter, telegram, or other writing, within three days of the notice to the owner or bailee which is provided for in Section 12604.

SEC. 9. Section 12614 of the Food and Agricultural Code is amended to read:

12614. If the appeal analysis shows that the lot of produce carries pesticide residue in excess of any maximum which is provided in this chapter or in excess of a permissible tolerance, the lot of produce may be disposed of pursuant to Sections 12607, 12608, and 12609.

SEC. 10. Section 12615 of the Food and Agricultural Code is amended to read:

12615. If the appeal analysis shows that the lot or produce does not carry pesticide residue in excess of any maximum which is provided by this chapter, or in excess of a permissible tolerance, the director shall forthwith release the lot from the seizure and remove the hold order or tag.

SEC. 11. Section 12642 of the Food and Agricultural Code is amended to read:

12642. Any lot of produce which is found to carry pesticide residue in excess of any maximum which is provided in this chapter, or in excess of a permissible tolerance, together with its containers, is a public nuisance, and if not disposed of pursuant to Article 5 (commencing with Section 12601) of this chapter, is subject to disposal on complaint of the director to a court of competent jurisdiction.

SEC. 12. Section 12671 of the Food and Agricultural Code is amended to read:

12671. It is unlawful for any person to pack, ship, or sell any produce that carries pesticide residue in excess of the permissible tolerance which is established by the director pursuant to this chapter.

SEC. 13. Section 12673 of the Food and Agricultural Code is amended to read:

12673. The director or commissioner may prohibit the harvest of any produce that carries pesticide residue in excess of a permissible tolerance which is established by the director pursuant to this chapter.

CHAPTER 718

An act to amend Section 55501.5 of the Water Code, relating to county waterworks districts.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 55501.5 of the Water Code is amended to read:

55501.5. A district may fix a water service standby or immediate availability charge to be applied on an area or frontage or parcel basis, or a combination thereof, within the district to be charged to areas to which water service is made available for any purpose by the district, whether the water service is actually used or not. The district may establish schedules varying the charge according to the land uses and the degree of availability or quantity of use of the water service to the affected lands, and may restrict the charge to lands lying within one or more zones or areas of benefits established within the district. The district may not, however, except as is otherwise provided in this section, fix a charge in excess of thirty dollars ($30) per acre or for a parcel of less than one acre.

The maximum charge which may be fixed by the district may be increased from one fiscal year to the next by the same percentage increase as reflected by the Consumer Price Index, as issued by the United States Bureau of Labor Statistics, relative to the immediately preceding fiscal year.

If a person for more than one year obtains substantially all of his water requirements for the contiguous parcels of land which the person occupies from rainfall, springs, streams, lakes, rivers or wells, and if the person's primary economic activity on the land is the commercial extraction or processing of minerals, the land is exempt from any water standby or availability charges.

The district may collect the standby or availability charge by billing the charged lands on a fiscal year basis or by other means available.

The district may collect the standby or availability charge as a part of the annual general county tax bill if the district furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed, together with the amount of the charge applicable to each parcel, in sufficient time to meet the schedule established by the county for inclusion of those items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In that case, the standby or availability charge is a lien against the parcel of land to which it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the

standby or availability charge, or the amount thereof unpaid, in the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes. All laws applicable to the levy, collection, and enforcement of municipal ad valorem taxes are applicable to those charges, except that, if any real property to which the 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 attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to the real property and the charge relating to the property shall be transferred to the unsecured roll for collection.

If the district collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

CHAPTER 719

An act to add Section 21351.7 to the Vehicle Code, relating to signs.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 21351.7 is added to the Vehicle Code, to read:

21351.7. Local authorities in their respective jurisdictions may place and maintain, or cause to be placed and maintained, appropriate signs along city streets or county roads which indicate that a deaf child is near.

CHAPTER 720

An act to add Section 719 to the Civil Code, and to amend Section 37380 of the Government Code, relating to city property.

[Approved by Governor September 9, 1983 Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 719 is added to the Civil Code, to read:

719. Notwithstanding the 55-year limitation imposed by Section 718, property owned by, or held by, or under the management and

control of, any city, or any department or board thereof, may be leased for a period which exceeds 55 years but does not exceed 99 years, if all of the following conditions are met:

(a) The lease shall be subject to periodic review by the city and shall take into consideration the then current market conditions. The local legislative body may, prior to final execution of the lease, establish the lease provisions which will periodically be reviewed, and determine when those provisions are to be reviewed.

(b) Any lease entered into by any city pursuant to this section shall be authorized by an ordinance adopted by the legislative body. The ordinance shall be subject to referendum in the manner prescribed by law for ordinances of cities.

(c) Prior to adopting an ordinance authorizing a lease, the legislative body shall hold a public hearing. Notice of the time and place of the hearing shall be published pursuant to Section 6066 of the Government Code, in one or more newspapers of general circulation within the city and shall be mailed to any person requesting special notice, to any present tenant of the public property, and to all owners of land adjoining the property.

(d) Any lease shall be awarded to the bidder which, in the determination of the legislative body, offers the greatest economic return to the city, after competitive bidding conducted in the manner determined by the legislative body. Notice inviting bids shall be published pursuant to Section 6066 in one or more newspapers of general circulation within the city.

(e) The provisions of subdivisions (b), (c), and (d) of this section do not apply to any charter city, which may utilize a procedure as specified by charter or adopted by ordinance in accordance with its charter.

(f) This section shall not apply to leases of property acquired for park purposes; to leases for the purpose of producing mineral, oil, gas, or other hydrocarbon substances; nor to leases of tidelands or submerged lands or improvements thereon.

SEC. 2. Section 37380 of the Government Code is amended to read:

37380. (a) A city may lease property owned or held or controlled by it, or any of its departments, for not to exceed 55 years.

(b) Notwithstanding the 55-year limitation in subdivision (a), a city may lease property owned or held or controlled by it, or any of its departments or boards for a period exceeding 55 years but not exceeding 99 years, if all of the following conditions are met:

(1) The lease shall be subject to periodic review by the city and shall take into consideration the then current market conditions. The local legislative body may, prior to final execution of the lease, establish the lease provisions which will periodically be reviewed, and determine when those provisions are to be reviewed.

(2) Any lease entered into pursuant to this section shall be authorized by an ordinance adopted by the legislative body. The ordinance shall be subject to referendum in the manner prescribed

by law for ordinances of cities.

(3) Prior to adopting an ordinance authorizing a lease, the governing body shall hold a public hearing. Notice of the time and place of the hearing shall be published pursuant to Section 6066 in one or more newspapers of general circulation within the city, and shall be mailed to any person requesting special notice, to any present tenant of the public property, and to all owners of land adjoining the property.

(4) Any lease shall be awarded to the bidder which, in the determination of the legislative body, offers the greatest economic return to the city, after competitive bidding conducted in the manner determined by the legislative body. Notice inviting bids shall be published pursuant to Section 6066 in one or more newspapers of general circulation within the city.

The provisions of paragraphs (2), (3), and (4) do not apply to any charter city, which may utilize a procedure as specified by charter or adopted by ordinance in accordance with its charter.

CHAPTER 721

An act to amend Section 476 of, and to add Chapter 5 (commencing with Section 19800) to Division 8 of, the Business and Professions Code, relating to gaming clubs.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 476 of the Business and Professions Code is amended to read:

476. Nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

SEC. 2. Chapter 5 (commencing with Section 19800) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 5. GAMING CLUBS

19800. This chapter may be cited as "The Gaming Registration Act."

19801. It is the intent of the Legislature, in enacting this chapter to have concurrent jurisdiction with local governments over gaming establishments within the State of California and to provide uniform minimum regulation of the operation of those establishments through registration by the Attorney General of those who own or manage gaming clubs.

Nothing in this chapter shall be construed to preempt the authority of any city, county, and city and county from prohibiting gaming, from imposing any valid local controls or conditions upon gaming, from inspecting gaming premises to enforce applicable state and local laws, or from imposing any local tax or license fee.

19802. As used in this chapter:

(a) "Legal gambling or gaming" means any card game played for currency, check, credit or other thing of value which is not prohibited and made unlawful by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Coe or by local ordinance.

(b) "Gaming club" means any establishment where legal gambling is conducted and regulated pursuant to local ordinance.

(c) "Person" means any member, stockholder, officer, director, partner, principal, associate, individual, or combination thereof holding any direct or indirect financial interest in a gaming club, or who has the power to exercise influence over the operation of the club.

(d) "Conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the Attorney General takes following a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. The record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Attorney General may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the registrant in question.

19803. The Attorney General shall adopt rules and regulations for the administration and enforcement of the provisions of this chapter.

19804. The Attorney General shall, either on his or her initiative or in response to a complaint, investigate and gather evidence of violations of this chapter, or violations of any rule or regulation promulgated thereunder, and may initiate proceedings to deny, suspend, or revoke a registration. The Attorney General may issue subpoenas for the appearance of witnesses and the production of documents and other evidence.

19805. (a) No persons shall own or operate a gaming club without first obtaining a valid registration from the Attorney General.

(b) No city, county, or city and county which permits gaming may authorize any person to own or operate a gaming club unless that person possesses a valid registration pursuant to subdivision (a).

19806. Applicants and registrants shall authorize the Attorney General, or his or her representative, as a condition of registration, to do any of the following:

(a) Make any examination of the books and records of any registrant or other person and visit and inspect the premises of any registrant during normal business hours as deemed necessary by the Attorney General to enforce this chapter.

(b) Seize and remove from such premises and impound any illegal equipment or supplies.

19807. (a) The Attorney General shall provide forms, which are to be completed under penalty of perjury, to obtain information to identify the persons applying for registration including, but not limited to, the individual's name, address, identification numbers and other data prescribed by the Attorney General, and the specific gaming club or clubs involved and any relevant information pertaining to other persons as defined in subdivision (c) of Section 19802 affiliated with the gaming club or clubs. Applicants for registration who have or will have an ownership or management interest in any gaming club shall submit full financial statements, as prescribed by rule and regulation, and which shall include a statement of any interest in any other business. The applicant shall submit a statement under penalty of perjury that no person, other than those disclosed in the application, shall have any ownership control or other financial interest in the gaming club.

(b) If any of the information submitted by an applicant or registrant changes, the applicant or registrant shall promptly notify the Attorney General. The Attorney General may deny a change in ownership for any of the reasons set forth in Section 19809.

(c) Applications for registration by individuals who owned, operated, or had financial interest in gaming clubs on or before January 1, 1983, and all applications to renew registrations granted pursuant to this chapter, shall be acted upon within 60 days after the applicant submits a completed application form. All other applications shall be completed within 180 days of submission of a completed application form. If no action is taken within the time allowed, the application shall be deemed granted.

19808. (a) The fee for applications for registration by individuals who owned, operated, or had a financial interest in gaming clubs on or before January 1, 1983, or for applications to renew registrations granted pursuant to this chapter, shall not exceed five hundred dollars ($500). All other applicants shall be charged an amount not to exceed the actual, reasonable cost incurred in processing, investigating, and approving or denying the application.

(b) An annual renewal fee shall be assessed which shall not exceed the actual, reasonable cost incurred in processing, investigating, and approving or denying the renewal application.

19809. (a) An application for registration may be denied if the person:

(1) Is under the age of 18 years.

(2) Makes a false statement required to be revealed in an application for registration issued pursuant to this chapter or any application made for permission to conduct a gaming club to a local

authority.

(3) Has been convicted of a crime punishable as a felony.

(4) Has been convicted of an offense involving dishonesty.

(5) Has engaged in bookmaking or other illegal gambling activities or has been convicted of an offense involving such activities.

(6) Has any financial or other interest in any business or organization outside the State of California which is engaged in any form of gambling or gaming not authorized by the laws of this state.

(b) The Attorney General may impose any condition upon registration reasonably necessary for implementation of this chapter.

(c) Denial of an application for any of the reasons specified in subdivision (a) shall not preclude the Attorney General or local enforcement agencies from filing criminal charges for any act done in making the application or for any act which is a ground for denial of a registration, which act might otherwise constitute a public offense.

19810. (a) Registration may be suspended or revoked, in whole or in part, if the registrant has done any of the following:

(1) Committed any act which would constitute grounds for denial of registration as set forth in Section 19809.

(2) Violated any federal, state or local statute, rule or ordinance regulating gambling.

(3) Engaged in false or misleading advertising in connection with gambling.

(4) Failed to take reasonable steps to prevent any dishonest acts or illegal activities occurring on the gaming premises committed by any patron or other individual or employee licensed pursuant to Section 19823.

(5) Failed to pay any monetary penalty levied pursuant to Section 19812.

(6) Had his or her authorization to operate a gaming club suspended or revoked or otherwise restricted by any local authority.

(7) Denied the Attorney General access to any place within a gaming club establishment or failed to promptly produce for inspection or audit any book, record, or document requested by the Attorney General.

(8) Failed to comply with any condition of registration.

(9) Obtained a registration by fraud, misrepresentation, concealment, or through inadvertence or mistake.

(10) Made a misrepresentation, or failed to disclose, a material fact to the Attorney General.

(b) Suspension or revocation of a registration for any of the reasons specified in subdivision (a) shall not preclude the Attorney General or local enforcement agencies from filing criminal charges for any act done which is grounds for suspension or revocation, which act might otherwise constitute a public offense.

19811. Any act of an employee not licensed pursuant to Section 19823 which constitutes a violation of this chapter shall also constitute

a violation of this chapter by the owner or operator of the gaming club whether or not the owner or operator had knowledge of the act of the employee or participated in the act.

19812. In addition to the penalty specified in Section 19810, the Attorney General may levy a fine not to exceed ten thousand dollars ($10,000) for each violation of any rule or regulation promulgated under this chapter. Nothing in this section shall preclude the Attorney General or local enforcement agencies from filing criminal charges for any act done which constitutes a violation of a rule or regulation promulgated under this chapter, which act might otherwise constitute a public offense.

19813. All hearings relating to the denial, suspension, or violation of a registration 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. These proceedings shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

19814. The Attorney General shall retain jurisdiction of a revoked, suspended, or denied registration in order to proceed with any investigation or disciplinary action relating to a registrant.

19815. When the Attorney General determines it necessary to protect the public interest, he or she may bring an action against a registrant pursuant to Section 125.8. In addition to the remedy prescribed in those sections, the Attorney General may recover investigative costs and attorney fees.

19816. Any person subpoenaed by the Attorney General pursuant to Section 19804 who fails to appear at the time and place specified to answer the subpoena, or who upon such appearance refuses to testify or produce such records or things, is guilty of a misdemeanor.

19817. Any person or entity owning, managing, or otherwise operating a gaming club without a valid registration from the Attorney General as provided by this chapter is subject to imprisonment in state prison, or by imprisonment in the county jail for not more than one year.

19818. All fees, revenues, and penalties collected pursuant to this chapter shall be deposited in a special account in the General Fund to be available for expenditure by the Department of Justice to offset costs incurred pursuant to this chapter when appropriated by the Legislature therefor.

19819. No gaming club shall be located within the territorial limits of any county, city, or city and county which had not permitted gaming clubs prior to January 1, 1984, unless a majority of electors voting thereon affirmatively approve a measure permitting legal gambling within that city, county, or city and county. The question shall appear on the ballot in substantially the following form:

"Shall card clubs in which any games permitted by law, such as draw poker, low-ball poker and panguingue (pan) are played be

allowed in _____?"
Yes _____ No _____

19820. Any city, county, or city and county permitting gaming may, by ordinance, provide for the exclusion or ejection from any gaming club of any individual who has engaged in or been convicted of bookmaking, sale of controlled substances or illegal gambling activities, or whose presence in or about gaming clubs would be inimical to the interests of legitimate gaming. No such ordinance shall provide for the exclusion or ejection of any person on the grounds of race, color, creed or sex.

19821. (a) Any person who, pursuant to local ordinance, is excluded or ejected from any gaming club may apply to the city, county, or city and county licensing authority for a hearing on the question of whether the ordinance is applicable. The hearing shall be held within 30 days after receipt of the application or at such other time as the applicant and licensing authority may agree.

(b) If, upon the hearing, the licensing authority determines that the rule does not or should not apply to the applicant, it shall notify all gaming clubs licensed by the city, county, or city and county of such determination. If the licensing authority determines that the exclusion or ejection was proper, it shall make an order to that effect. Such order shall be subject to review by any court of competent jurisdiction in accordance with law.

19822. Notwithstanding any other provision of law, no gaming club which ejects or excludes any individual based upon an ordinance adopted pursuant to Section 19820 shall be subject to civil liability if such ejection or exclusion was based upon a reasonable and good faith belief that the ordinance applied to the individual in question.

19823. Any city, county, or city and county permitting gaming may, by ordinance, require licensure or work permits for any or all employees of gaming clubs within its jurisdiction. Licensure may include a review of the applicant's criminal history information with the Department of Justice pursuant to Penal Code Section 11105.

19824. The provisions of this chapter shall not prohibit the enactment, amendment, or enforcement of any ordinance by any county, city, or city and county relating to gaming clubs which is not inconsistent with the provisions of this chapter.

19825. The provisions of this chapter shall not be applicable to any bingo game which is conducted in a city, county, or city and county pursuant to Section 326.5 of the Penal Code.

19826. This law shall become operative July 1, 1984, and shall apply to all gaming clubs in existence on or after that date.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act

creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 722

An act to add Section 98162.5 to the Public Utilities Code, relating to transit districts.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 98162.5 is added to the Public Utilities Code, to read:

98162.5. Any question which may arise with respect to whether a majority of the employees in an appropriate unit desire to be represented by a labor organization shall be submitted to the Director of Industrial Relations.

In resolving the questions of representation, including the determination of the appropriate unit or units, petitions, and the conduct of hearings and elections, the director shall apply the relevant federal law and administrative practice developed under the Labor Management Relations Act, 1947, as amended, and for this purpose shall adopt appropriate rules and regulations. The rules and regulations shall be administered by the State Conciliation Service and shall provide for a prompt public hearing and a secret ballot election to determine the question of representation.

CHAPTER 723

An act to add Section 2679 to the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983]

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

SECTION 1. Section 2679 is added to the Unemployment Insurance Code, to read:

2679. Notwithstanding any other provision of law, an individual shall not be disqualified for benefits under this part for the day on which he or she died if the individual is otherwise eligible.

CHAPTER 724

An act to amend Section 11349.5 of the Government Code, relating to state administrative regulations.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 11349.5 of the Government Code is amended to read:

11349.5. (a) To initiate a review of a decision by the Office of Administrative Law, the agency shall file a written Request for Review with the Governor's Legal Affairs Secretary within 10 days of receipt of a decision by the office. The Request for Review shall include a complete statement as to why the agency believes the decision is incorrect and should be overruled. Along with the Request for Review, the agency shall submit all of the following:

(1) The notice of disapproval by the Office of Administrative Law.

(2) Copies of all regulations, notices, statements, and other documents which were submitted to the Office of Administrative Law.

(b) A copy of the agency's Request for Review shall be delivered to the Office of Administrative Law on the same day it is delivered to the Governor's office. The office shall file its written response to the agency's request with the Governor's Legal Affairs Secretary within 10 days and deliver a copy of its response to the agency on the same day it is delivered to the Governor's office.

(c) The Governor's office shall provide the requesting agency and the office with a written decision within 15 days of receipt of the response by the office to the agency's Request for Review. Upon receipt of the decision, the office shall publish in the Administrative Register the agency's Request for Review, the office's response thereto, and the decision of the Governor's office.

(d) The time requirements set by subdivisions (a) and (b) may be shortened by the Governor's office for good cause.

(e) The Governor may overrule the decision of the office disapproving a proposed regulation, an order repealing an emergency regulation adopted pursuant to subdivision (b) of Section 11346.1, a decision refusing to allow the readoption of an emergency regulation pursuant to Section 11346.1, or a determination to repeal pursuant to subdivision (k) of Section 11349.7. In that event, the office shall immediately transmit the regulation to the Secretary of State for filing.

(f) Upon overruling the decision of the office, the Governor shall immediately transmit to the Rules Committees of both houses of the Legislature a statement of his reasons for overruling the decision of the office, along with copies of the adopting agency's initial

statement of reasons issued pursuant to Section 11346.7 and the office's statement regarding the disapproval of a regulation issued pursuant to subdivision (b) of Section 11349.3. The Governor's action and the reasons therefor shall be published in the California Administrative Notice Register.

CHAPTER 725

An act to amend Sections 18028, 18115, 18130, 18147, and 18265 of, to repeal Sections 18133, 18134, 18135, 18322, 18323, 18324, and Chapter 9 (commencing with Section 18650) of Division 7 of, and to repeal and add Sections 18131 and 18132 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. 18028 of the Financial Code is amended to read:

18028. All corporations formed under the provisions of this division are taxed in the same manner and at the same rates as other corporations are taxed pursuant to Section 27 of Article XIII of the Constitution of this state.

SEC. 2. Section 18115 of the Financial Code is amended to read:

18115. An application for authority to engage in the industrial loan business shall be in such form and contain such information as the commissioner may require and shall be accompanied by a filing fee of four hundred dollars ($400).

SEC. 3. Section 18130 of the Financial Code is amended to read:

18130. The capital stock of an industrial loan company incorporated under this division shall not be less than:

(a) Five hundred thousand dollars ($500,000), if incorporated or commencing business on or before July 8, 1975.

(b) Seven hundred fifty thousand dollars ($750,000), and a paid-in surplus of five hundred thousand dollars ($500,000), at the time business is commenced, if incorporated or commencing business on or after July 9, 1975.

SEC. 4. Section 18131 of the Financial Code is repealed.

SEC. 5. Section 18131 is added to the Financial Code, to read:

18131. In addition to the capital stock required by Section 18130, an industrial loan company which has branch offices or which opens an additional branch office or place of business shall have additional capital stock of fifty thousand dollars ($50,000) for each branch office.

SEC. 6. Section 18132 of the Financial Code is repealed.

SEC. 7. Section 18132 is added to the Financial Code, to read:

18132. An industrial loan company may declare a dividend on its capital stock only if the company has minimum unimpaired capital

of seven hundred fifty thousand dollars ($750,000) plus additional capital stock of fifty thousand dollars ($50,000) for each branch office.

SEC. 8. Section 18133 of the Financial Code is repealed.

SEC. 9. Section 18134 of the Financial Code is repealed.

SEC. 10. Section 18135 of the Financial Code is repealed.

SEC. 11. Section 18147 of the Financial Code is amended to read:

18147. The commissioner shall not approve an application for a branch office until the commissioner has ascertained to his satisfaction that the facts set forth in the application are true and:

(a) That the public convenience and advantage will be promoted by the establishment of the proposed branch office.

(b) That the industrial loan company has the capital required by this division.

(c) That the industrial loan company has established branch operational controls.

(d) That the financial condition of the industrial loan company justifies the establishment of the proposed branch office.

SEC. 12. Section 18265 of the Financial Code is amended to read:

18265. An industrial loan company that has investment certificates outstanding shall not make any loan or purchase or discount any other obligation with a maturity of more than 60 months and 15 days unless all of the following conditions are met:

(a) The loan or other obligation is secured.

(b) The property, or collateral securing the loan or other obligation, is of a kind or class that has been declared eligible by regulation of the commissioner.

(c) The aggregate principal balance of such loans and other obligations outstanding with a remaining maturity of more than 60 months and 15 days at any time shall not exceed a percentage of the aggregate principal balance due on all loans and other obligations owing to the industrial loan company by rule of the commissioner.

SEC. 13. Section 18322 of the Financial Code is repealed.

SEC. 14. Section 18323 of the Financial Code is repealed.

SEC. 15. Section 18324 of the Financial Code is repealed.

SEC. 16. Chapter 9 (commencing with Section 18650) of Division 7 of the Financial Code is repealed.

SEC. 17. Industrial loan companies which commenced business prior to July 9, 1975, and which do not meet the capital stock and paid-in surplus requirements of this act shall be governed by Sections 18130, 18131, 18132, 18133, 18134, and 18135 of the Financial Code, as in effect immediately prior to the effective date of this act, until January 1, 1987.

CHAPTER 726

An act to amend Section 594.3 of the Penal Code, relating to crime.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 594.3 of the Penal Code is amended to read:

594.3. (a) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for not exceeding one year.

(b) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted, which is shown to have been committed by reason of the race, color, religion, or national origin of another individual or group of individuals and to have been committed for the purpose of intimidating and deterring persons from freely exercising their religious beliefs, is guilty of a felony punishable by imprisonment in the state prison.

SEC. 2. The Legislature hereby finds and declares the following:

(a) There has been an alarming increase in the number of incidents involving acts of vandalism to religious institutions, and available evidence indicates that these acts are often motivated by racial and religious prejudice.

(b) In many cases these acts of vandalism have been committed for the purpose of intimidating persons and deterring them from freely exercising their religious beliefs.

(c) Freedom to exercise one's personal religious belief is fundamental to our society and guaranteed by the United States Constitution, and protection of this significant First Amendment right is a primary responsibility of the Legislature and the State of California.

(d) These racially motivated acts of vandalism should be viewed more seriously in the context of law enforcement when they threaten and intimidate the free exercise of religious beliefs which is a fundamental constitutional right.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or

eliminates a crime or infraction.

CHAPTER 727

An act to amend Section 17533.8 of the Business and Professions Code, relating to advertising.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 17533.8 of the Business and Professions Code is amended to read:

17533.8. (a) It is unlawful for any person to offer, by mail, by telephone, in person, or by any other means or in any other form, a prize or gift, with the intent to offer a sales presentation, without disclosing at the time of the offer of the prize or gift, in a clear and unequivocal manner, the intent to offer such sales presentation.

(b) This section shall not apply to the publisher of any newspaper, periodical, or other publication, or any radio or television broadcaster, or the owner or operator of any cable, satellite, or other medium of communications who broadcasts or publishes an advertisement or offer in good faith, without knowledge of its violation of subdivision (a).

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 728

An act to amend Sections 1795.1, 1795.5, and 1795.6 of the Civil Code, relating to consumer warranties.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 1795.1 of the Civil Code is amended to read:

1795.1. This chapter shall apply to any equipment or mechanical, electrical, or thermal component of a system designed to heat, cool,

or otherwise condition air, but, with that exception, shall not apply to the system as a whole where such a system becomes a fixed part of a structure.

SEC. 2. Section 1795.5 of the Civil Code is amended to read:

1795.5. Notwithstanding the provisions of subdivision (a) of Section 1791 defining consumer goods to mean "new" goods, the obligation of a distributor or retail seller of used consumer goods in a sale in which an express warranty is given shall be the same as that imposed on manufacturers under this chapter except:

(a) It shall be the obligation of the distributor or retail seller making express warranties with respect to used consumer goods (and not the original manufacturer, distributor, or retail seller making express warranties with respect to such goods when new) to maintain sufficient service and repair facilities within this state to carry out the terms of such express warranties.

(b) The provisions of Section 1793.5 shall not apply to the sale of used consumer goods sold in this state.

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness with respect to used consumer goods sold in this state, where the sale is accompanied by an express warranty, shall be coextensive in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable, but in no event shall such implied warranties have a duration of less than 30 days nor more than three months following the sale of used consumer goods to a retail buyer. Where no duration for an express warranty is stated with respect to such goods, or parts thereof, the duration of the implied warranties shall be the maximum period prescribed above.

(d) The obligation of the distributor or retail seller who makes express warranties with respect to used goods that are sold in this state, shall extend to the sale of all such used goods, regardless of when such goods may have been manufactured.

SEC. 3. Section 1795.6 of the Civil Code is amended to read:

1795.6. (a) Every warranty period relating to an implied or express warranty accompanying a sale or consignment for sale of consumer goods selling for fifty dollars ($50) or more shall automatically be tolled for the period from the date upon which the buyer either (1) delivers nonconforming goods to the manufacturer or seller for warranty repairs or service or (2), pursuant to subdivision (c) of Section 1793.2 or subdivision (e) of Section 1793.3, notifies the manufacturer or seller of the nonconformity of the goods up to, and including, the date upon which (1) the repaired or serviced goods are delivered to the buyer, (2) the buyer is notified the goods are repaired or serviced and are available for the buyer's possession or (3) the buyer is notified that repairs or service is completed, if repairs or service is made at the buyer's residence.

(b) Notwithstanding the date or conditions set for the expiration of the warranty period, such warranty period shall not be deemed expired if either or both of the following situations occur: (1) after

the buyer has satisfied the requirements of subdivision (a), the warranty repairs or service has not been performed due to delays caused by circumstances beyond the control of the buyer or (2) the warranty repairs or service performed upon the nonconforming goods did not remedy the nonconformity for which such repairs or service was performed and the buyer notified the manufacturer or seller of this failure within 60 days after the repairs or service was completed. When the warranty repairs or service has been performed so as to remedy the nonconformity, the warranty period shall expire in accordance with its terms, including any extension to the warranty period for warranty repairs or service.

(c) For purposes of this section only, "manufacturer" includes the manufacturer's service or repair facility.

(d) Every manufacturer or seller of consumer goods selling for fifty dollars ($50) or more shall provide a receipt to the buyer showing the date of purchase. Every manufacturer or seller performing warranty repairs or service on the goods shall provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced or, where applicable, the date the goods were shipped or delivered to the buyer.

CHAPTER 729

An act to add Section 6514.5 to the Government Code, relating to public agencies.

[Approved by Governor September 9, 1983. Filed with Secretary of State September 11, 1983.]

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

SECTION 1. Section 6514.5 is added to the Government Code, to read:

6514.5. Any public agency may enter into agreements with other state agencies pursuant to the provisions of Section 11256.

CHAPTER 730

An act to amend Section 14998.2 of the Government Code, relating to the Motion Picture Council.

[Became law without Governor's signature. Filed with Secretary of State September 12, 1983]

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

SECTION 1. Section 14998.2 of the Government Code is amended to read:

14998.2. There is in the state government the Motion Picture Council consisting of 17 members. The Governor shall appoint 11 members, the Senate Rules Committee shall appoint three members and the Speaker of the Assembly shall appoint three members. The members of the council appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries. The Motion Picture Council shall work to encourage motion picture and television filming in California and shall exercise the powers provided in this section of the code and elsewhere in the Government Code. In addition to other duties provided by law, the Motion Picture Council shall also make recommendations to the Department of Economic and Business Development and the agencies of state government on legislative or administrative actions that may be necessary or helpful to maintain and improve the position of the state's motion picture industry in the national and world market.

One of the members appointed by the Senate Rules Committee shall be a Senator and one of the members appointed by the Speaker shall be a member of the Assembly at the time of appointment. Such persons shall be appointed for terms of four years.

Each legislator shall serve a term of four years. The 11 members appointed by the Governor shall serve staggered terms of four years each. Each term shall commence on January 1 and shall expire four years subsequent to the expiration date of the prior term.

CHAPTER 731

An act to add Section 20229 to the Public Contract Code, relating to the San Francisco Bay Area Rapid Transit District.

[Became law without Governor's signature. Filed with Secretary of State September 12, 1983.]

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

SECTION 1. Section 20229 is added to the Public Contract Code, to read:

20229. In order to facilitate the participation of minority-owned and women-owned businesses in nonfederally funded contracts consistent with federally funded contracts, the district may establish for nonfederally funded contracts percentage goals for participation

of those businesses in subcontracts and subsupply contracts in accordance with the provisions of Part 23 (commencing with Section 23.1) of Title 49 of the Code of Federal Regulations in effect on January 1, 1983.

CHAPTER 732

An act to amend Section 6202 of the Penal Code, and to add Section 4958 to the Public Resources Code, relating to conservation and training program.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 6202 of the Penal Code is amended to read:

6202. Work of inmates assigned to the conservation centers may be performed at the conservation centers or branches thereof or in or from permanent, temporary, and mobile camps established pursuant to this chapter or pursuant to Article 5 (commencing with Section 2780) of Chapter 5 of Title 1 of Part 3. The provisions of Sections 2780.1 to 2786, inclusive, and Sections 2788 to 2791, inclusive, are applicable to camps established pursuant to this article as well as those established pursuant to that Article 5. The Director of Corrections may, at such times as the director deems proper and on such terms as the director deems wise, enter into contracts or cooperative agreements with any public agency, local, state, or federal, for the performance of other conservation projects which are appropriate for the public agencies under policies which shall be established by the Prison Industry Authority.

Inmates and wards may be assigned to perform public conservation projects, including, but not limited to, forest fire prevention and control, forest and watershed management, recreational area development, fish and game management, soil conservation, and forest watershed revegetation.

No productive industrial enterprise subject to the jurisdiction of the Prison Industry Authority shall be established at any center or branch thereof or camp established pursuant to this chapter except in compliance with Chapter 3.5 (commencing with Section 5085) of Title 7 of Part 3.

SEC. 2. Section 4958 is added to the Public Resources Code, to read:

4958. Conservation camp inmates and wards may, upon the request of the appropriate public agency, be utilized in the performance of preventive maintenance or reconstruction of levees or of any other work necessary to prevent flood damage to land resulting from levee breaks or overflows.

CHAPTER 733

An act to amend Sections 15709, 15976, 16486, and 16487 of the Public Utilities Code, relating to public utility districts.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 15709 of the Public Utilities Code is amended to read:

15709. Notwithstanding any provision of law, for purposes of this division all territory in the Kirkwood Meadows Public Utility District shall be deemed to be solely within the County of Alpine, which shall be the principal county for purposes of formation of the district and which shall have jurisdiction to approve, disapprove, and carry out all matters pertaining to formation of the district; provided, however, that nothing in this section shall limit or impair the authority of the Board of Supervisors of the County of El Dorado or the County of Amador to disapprove, by resolution, formation of all or any part of the Kirkwood Meadows Public Utility District within its territory any time prior to final approval of the district by the County of Alpine. If either county so disapproves, any territory designated by the resolution of disapproval shall be excluded from the boundaries of the district.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1986, this section is repealed on that date.

SEC. 2. Section 15976 of the Public Utilities Code is amended to read:

15976. Notwithstanding any provision of law, the Board of Directors of the Kirkwood Meadows Public Utility District shall consist of five members, elected at large. Each member of the board, including a member appointed to fill a vacancy, shall be a resident and qualified elector of the district.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1986, this section is repealed on that date.

SEC. 3. Section 16486 of the Public Utilities Code is amended to read:

16486. In addition to all other powers, excepting telephone service, authorized by this division, the Kirkwood Meadows Public Utility District may acquire, construct, own, and operate public parking facilities and cable television facilities and may provide snow removal and road maintenance services for all roads open to the public, including, but not limited to, public roads and roads offered for dedication but not accepted, within the district. Prior to providing any snow removal or road maintenance services, the

district shall obtain the consent of any public agency owning the roads. Notwithstanding Section 16467, the facilities and services provided in this subdivision need not be operated on a self-sustaining, revenue-producing basis. Revenue to defray the cost of the facilities and services may be raised in any manner authorized by this division.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1986, this section is repealed on that date.

SEC. 4. Section 16487 of the Public Utilities Code, as added by Chapter 852 of the Statutes of 1981, is amended to read:

16487. Notwithstanding any other provision of law, the Kirkwood Meadows Public Utility District may issue bonds and incur indebtedness pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), or the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) for the purpose of acquiring, constructing, owning, and operating any revenue-producing improvement, building, system, plant, works, facilities, undertaking, or other enterprise used for or useful for the generation, production, transmission, or distribution of electricity or gas for light, heat, or power for public or private uses.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1986, this section is repealed on that date.

SEC. 5. If the Kirkwood Meadows Public Utility District is incorporated on or before March 1, 1986, the district shall make payment to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act. In this event, no appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 6. If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1986, notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 734

An act to add and repeal Section 1259 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 1259 is added to the Health and Safety Code, to read:

1259. (a) If language or communication barriers exist between patients and the staff of any health facility, as defined in Section 1250, reasonable arrangements shall be made for interpreters, bilingual professional staff, or for the use of other mechanisms to ensure adequate and speedy communication between patients and staff.

(b) As used in this section:

(1) "Interpreter" means a person fluent in English and in the necessary second language, and who can in lay terms accurately speak, read, and readily interpret in the necessary second language. Interpreters shall have the ability to translate the names of commonly known body parts and to describe symptoms and injuries in both languages. This may include members of the administrative, medical, or professional staff.

(2) "Language or communication barriers" means barriers which are experienced by limited-English-speaking and non-English-speaking people who speak the same primary language, and who comprise at least 5 percent of the population of the geographical area served by the facility or of the facility's actual patient population. In cases of dispute, the department shall determine, based on objective data, whether the 5 percent population standard applies to a given institution.

(c) Any health facility which meets the requirements of Section 84.51 and subsections (c) and (d) of Section 84.52 of Title 45 of the Code of Federal Regulations shall be deemed to meet the requirements of this section regarding persons described in subsections (c) and (d) of Section 84.52 of Title 45 of the Code of Federal Regulations, as these provisions of federal regulation read on January 1, 1984.

(d) The State Department of Health Services shall conduct a review of the interpretative services required to be provided by this section and shall submit a report to the Legislature, on or before January 1, 1987, with respect to the findings made during that review.

The report may also include:

(1) The language or communication barriers for which interpreters were most frequently requested.

(2) The language or communication barriers for which health facilities have the most difficulty providing interpreters.

(3) A description of the programs developed by health facilities to address the communication problems with patients who have limited ability to speak English or who are non-English speaking, particularly those patients to whose language or communication barriers health facilities have the most difficulty in responding.

(e) This section shall not be construed as requiring health facilities to lay off present staff or to hire new additional staff to meet the requirements of this section. However, health facilities shall make every reasonable effort to provide interpreters or bilingual professional staff, or to provide other mechanisms to ensure adequate and speedy communication between patients and staff needed to meet the requirements imposed by this section.

(f) Any provision contained in any contract negotiated by the special negotiator or the California Medical Assistance Commission pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code prior to January 1, 1984, which is inconsistent with the provisions of this section shall prevail over the requirements imposed by this section. However, contracts which are negotiated or renewed by the commission on and after January 1, 1984, shall, at a minimum, comply with the provisions of this section but may include additional requirements for the provision of bilingual services.

(g) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 735

An act to add Article 6 (commencing with Section 4695) to Chapter 6 of Division 4.5 of the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Article 6 (commencing with Section 4695) is added to Chapter 6 of Division 4.5 of the Welfare and Institutions Code, to read:

Article 6. Residential Facility Staff Training

4695. The State Department of Developmental Services shall offer, through the regional centers, in conjunction with community colleges which elect to participate, a uniform statewide training program for directors or licensees of residential facilities serving persons with developmental disabilities. The training program shall be at the college level, and shall be given for college credits.

CHAPTER 736

An act to add Section 729.8 to the Welfare and Institutions Code, relating to controlled substances.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 729.8 is added to the Welfare and Institutions Code, to read:

729.8. If a minor is found to be a person described in Section 602 by reason of unlawfully possessing controlled substances upon the grounds of, or within, any school providing instruction in kindergarten, or any of grades 1 through 12, inclusive, during hours in which the school is open for classes or school-related activities or programs, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that such condition would be inappropriate, shall require the minor to perform no less than 40 hours of community service.

CHAPTER 737

An act to amend Section 5151 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 5151 of the Revenue and Taxation Code is amended to read:

5151. Interest at the rate of 9 percent per annum shall be paid, when that interest is ten dollars ($10) or more, on any amount refunded under Section 5096.7, or refunded as a result of the reduction of assessed value following an application for equalization

by a board of equalization or by a court action to recover taxes, or as a consequence of an assessor's error, or as the result of an incorrect assessment not occasioned by the act or omission of the assessee. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of that notice.

Interest allowed under this section shall be computed using whichever of the following periods provides the longest period:

(a) The date of the recording of the deed to the public agency acquiring the property in eminent domain to the date of the filing of the claim for refund.

(b) The date of the payment of the tax on property subject to an application for equalization of the assessed value thereof to the date of the determination of the equalized value of the property.

(c) The date of the payment of the tax on property subject to a refund as a result of an assessor error in assessing the property to a date 15 days after the date of approval of the correction to the tax roll.

(d) Forty-five days following the filing of a claim for refund until the refund is paid.

The interest charged shall be apportioned to the appropriate funds, as determined by the county auditor.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 738

An act to add Chapter 7 (commencing with Section 17360) to Part 2 of Division 7 of the Business and Professions Code, relating to communications equipment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) Federal deregulation of the telecommunications industry, commencing on January 1, 1983, provides new opportunities for users of telephone services to purchase and use telephone and other communications equipment tailored to their particular needs.

(b) Suppliers of telephone and other communications equipment can benefit from potential buyers knowing the capabilities and reliability of this equipment available in the competitive marketplace.

(c) The Legislature can enhance the position of both buyers and sellers in the telephone and other communications equipment marketplace by requiring disclosure of product information.

SEC. 2. Chapter 7 (commencing with Section 17360) is added to Part 2 of Division 7 of the Business and Professions Code, to read:

CHAPTER 7. SALES OF TELEPHONE AND OTHER COMMUNICATIONS EQUIPMENT

17360. As used in this chapter, "person" includes an individual, partnership, firm, association, or corporation.

17361. Any person offering for sale or selling telephone handsets or keysets or private branch exchanges or private automatic branch exchanges of not more than 20-station capacity, whether new or reconditioned, shall specify in all advertisements and catalogs therefor, except point-of-sale advertising, and on or in the equipment package both of the following:

(a) Whether the equipment employs pulse, tone, pulse-or-tone, or other signaling method, and a general description of the services it can or cannot access as a result thereof.

(b) Whether the equipment is registered with the Federal Communications Commission pursuant to Part 68 of Title 47 of the Code of Federal Regulations.

17362. A retailer of telephone equipment shall give clear and conspicuous notice, both on the sale premises and in advertising and catalogs for telephone equipment, except point-of-sale advertising, of the person or persons responsible for repair of the equipment.

17363. Notwithstanding any other provision of this chapter, Sections 17361 and 17362 do not apply to any of the following:

(a) Institutional advertising directed to a general audience rather than to individual purchasers of telephone equipment.

(b) Advertising, point-of-sale advertising, catalogs for, and sales of, telephone equipment not intended for direct connection to a telephone corporation's central switching office through the telephone corporation lines.

(c) Advertising for used telephone equipment located on a customer's premises offered for sale by a telephone corporation

subject to the jurisdiction of the Public Utilities Commission.

(d) Catalogs and equipment packages for telephone equipment which are in print or in physical production on or before November 1, 1983.

17364. Every failure to comply with any provision of this chapter constitutes unfair competition and shall be enforced under Chapter 5 (commencing with Section 17200).

17365. This chapter shall become operative on November 1, 1983.

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 assist in bringing the benefits of rapid changes in the telecommunications industry to consumers as rapidly as possible, it is necessary for this act to become effective immediately.

CHAPTER 739

An act to add Section 104.7 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 104.7 is added to the Streets and Highways Code, to read:

104.7. (a) Unless otherwise provided by statute, when requested by a city or county, the department shall provide information regarding, and shall lease, unoccupied, unimproved property which is held for future highway purposes to the city or county within which the property is located. The city or county may use the leased property first for agricultural and community garden purposes, and second for recreational purposes, on terms and conditions not unreasonably inhibiting the use of the property, including, but not limited to, assumption of liability and installation and removal of improvements. The lease shall be for one dollar ($1) per year for not less than one year and shall be renewable.

The city or county may sublease the property for agricultural or recreational purposes upon prior written notification to the department, and may proceed with the sublease unless disapproved by the department within 10 working days after the notice is sent to the department. The first priority for a sublease shall be given to the owner of property contiguous to the leased land.

In a sublease of the property, the city or county may charge rental fees at least sufficient to pay its administrative costs. All money received by the city or county under a sublease, less administrative

costs, shall be transmitted to the department for deposit in the State Highway Account.

(b) Unoccupied, unimproved property which has commercial, industrial, or residential use as its most feasible or best use, as determined by the department, are not subject to this section.

(c) The Legislature finds and declares that the lease of unoccupied, unimproved property pursuant to this section serves a public purpose.

CHAPTER 740

An act to amend Sections 91501, 91503, 91520, and 91549 of the Government Code, relating to industrial development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1983 Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 91501 of the Government Code is amended to read:

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 the alternative method of financing provided in this title will benefit economically distressed communities with concentrated unemployment by employing a labor force from those communities and areas where persons are displaced due to industrial failures. 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.

The Legislature further finds that regional research and development facilities are beneficial to the state and the regions in which they are located by providing jobs in the facilities and in the surrounding community and by being a source of ideas and inventions that ultimately aid California manufacturers in expanding and being competitive in world markets.

The Legislature also finds that although tax-exempt financing in the form of industrial development bonds is available for the startup and expansion of industrial and energy development facilities, such financing is not available for startup or expansion of research and development facilities, potentially as viable a source of job creation as industrial and energy development projects.

Therefore, the Legislature finds that research and development facilities should be designated "permitted activities" under the state's industrial development bond program.

SEC. 2. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to the provisions of this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to such an activity or use, 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 energy transmission, transportation, or conveyance as distinguished from distribution activities.

(3) Research and development activities relating to commerce or industry including without limitation professional, administrative, and scientific office and laboratory activities or uses.

(b) (1) Residential real property for family unit or other housing activities;

(2) Sports activities;

(3) Convention or trade show activities;

(4) Airport, dock, wharf, 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 parkland 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, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 3. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to the provisions of this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to such an activity or use, 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, processing, or warehousing activities or motor carrier terminals with respect to any products of agriculture, forestry, mining, or manufacture, provided that these activities have demonstrated job creation or retention potential.

(2) Energy development, production, collection, conversion (from one form of energy to another), storage, or conservation activities, or energy transmission, transportation, or conveyance as distinguished from distribution activities.

(3) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(b) (1) Residential real property for family unit or other housing activities;

(2) Sports activities;

(3) Convention or trade show activities;

(4) Airport, dock, wharf, 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 parkland 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, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 4. Section 91520 of the Government Code is amended to read:

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, or, in the case of a redevelopment agency, by resolution, 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. With respect to a redevelopment agency, the resolution provided for herein shall be subject to referendum in the manner prescribed by law for ordinances of the community in which the agency is located.

(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.

SEC. 5. Section 91549 of the Government Code is amended to read:

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. However, all projects authorized by this title which are undertaken, carried out, or completed by redevelopment agencies shall be subject to the terms and limitations of this title, notwithstanding the authorities and provisions created by and under 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.

(e) A charter city which is otherwise authorized to undertake,

carry out and complete projects hereunder authorized and which adopted an industrial bond ordinance before December 31, 1979, need not comply with the provisions of this title (commencing with Section 91500) if: (1) the project is undertaken by January 1, 1984, 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, 1986.

(f) Notwithstanding subdivision (a), a redevelopment agency which is otherwise authorized to undertake, carry out, and complete projects hereunder authorized and which is undertaking the redevelopment of territory which has been subject to significant factory closure pursuant to Section 33213 of the Health and Safety Code may, in support of redevelopment of that territory, undertake, carry out and complete projects authorized by this title, including, without limitation, the issuance of bonds or other evidence of indebtedness, without regard to the requirements of this title, provided those projects are undertaken by January 1, 1987.

(g) 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 as to warehousing activities or motor carrier terminals.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill 323 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 91503 of the Government Code, and this bill is chaptered after Senate Bill 323, that Section 91503 of the Government Code, as amended by Section 1 of Senate Bill 323, be further amended on the effective date of this act in the form set forth in Section 3 of this act to incorporate the changes in Section 91503 proposed by this bill. Therefore, if this bill and Senate Bill 323 are both chaptered and become effective on or before January 1, 1984, and Senate Bill 323 is chaptered before this bill and amends Section 91503, Section 3 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

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 the necessity are:

In order to provide for immediate stimulation of the economy, it is necessary that this act take effect immediately.

CHAPTER 741

An act to amend Section 2881 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of the deaf or severely hearing-impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as deaf or severely hearing-impaired by a licensed physician, audiologist, or a qualified state agency. The commission shall phase in this program, on a geographical basis, over a four-year period ending on January 1, 1984.

(b) The commission shall also design and implement a program whereby each telephone corporation shall provide a dual party relay system, using third party intervention to connect deaf or severely hearing-impaired persons with persons of normal hearing by way of intercommunications devices for the deaf or severely hearing-impaired and the telephone system, making available reasonable access of all phases of public telephone service to deaf or severely hearing-impaired telephone subscribers. In order to make a dual party relay system which will meet the requirements of deaf and severely hearing-impaired persons available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual party relay service to the deaf or severely hearing-impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987.

(c) The commission shall establish a rate recovery mechanism, which shall not exceed three cents ($0.03) per month for each telephone line, to allow telephone corporations to recover costs as they are incurred under this section.

CHAPTER 742

An act to amend Sections 2708, 2710, 2713, 2785, 2786, 2786.5, 2786.6, and 2788 of, and to repeal Sections 2711 and 2787 of, the Business and Professions Code, relating to the Board of Registered Nursing.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 2708 of the Business and Professions Code is amended to read:

2708. The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of such duties.

The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

The executive officer shall not be a member of the board.

SEC. 2. Section 2710 of the Business and Professions Code is amended to read:

2710. Special meetings may be held at such times as the board may elect, or on the call of the president of the board, or of not less than three members thereof.

A written notice of the time, place and object of any special meeting shall be mailed by the executive officer to all members of the board who are not parties to the call, at least fifteen days before the day of the meeting.

SEC. 3. Section 2711 of the Business and Professions Code is repealed.

SEC. 4. Section 2713 of the Business and Professions Code is amended to read:

2713. The board shall keep a record of all its proceedings, including a register of all applicants for licenses under this chapter and the action of the board upon each application.

SEC. 5. Section 2785 of the Business and Professions Code is amended to read:

2785. The board shall prepare and maintain a list of approved schools of nursing in this state whose graduates, if they have the other necessary qualifications provided in this chapter, shall be eligible to apply for a license to practice nursing in this state.

SEC. 6. Section 2786 of the Business and Professions Code is amended to read:

2786. (a) An approved school of nursing is one which has been approved by the board, gives the course of instruction approved by the board, covering not less than two academic years, and is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education or is affiliated with an institution of

higher education. For purposes of this section, "institution of higher education" includes community colleges offering an associate degree. An approved school of nursing which is not an institution of higher education shall make an agreement with an institution of higher education in the same general location to grant an associate of arts degree to individuals who graduate from such school of nursing or to grant a baccalaureate degree in nursing with successful completion of an additional course of study as approved by the board and the institution involved.

(b) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse.

(c) The board shall perform or cause to be performed an analysis of the practice of the registered nurse at the entry level at least every eight years. The determination of the required subjects of instruction shall include, but not be limited to, the above analysis.

SEC. 7. Section 2786.5 of the Business and Professions Code is amended to read:

2786.5. The board shall on and after January 1, 1978, deny approval to any school of nursing which does not offer all of the courses required by the board for licensure as a registered nurse within the first 36 months of postsecondary training, or first six academic semesters, or the first nine academic quarters, whichever is lesser, unless that school of nursing is located at a postsecondary institution which admits no students to academic degree programs except as transferred or graduated students from other postsecondary institutions. "Postsecondary training", as used in this section, shall include all instruction received after matriculation in a postsecondary institution.

SEC. 8. Section 2786.6 of the Business and Professions Code is amended to read:

2786.6. The board shall deny the application for approval made by, and shall revoke the approval given to, any school of nursing which:

(a) Does not give to student applicants credit, in the field of nursing, for previous education and the opportunity to obtain credit for other acquired knowledge by the use of challenge examinations or other methods of evaluation; or,

(b) Is operated by a community college and discriminates against an applicant for admission to a school solely on the grounds that the applicant is seeking to fulfill the units of nursing required by Section 2736.6.

The board shall prescribe, by regulation, the education for which credit is to be given and the amount of credit which is to be given for each type of education. The word "credit," as used in the preceding sentence, is limited to credit for licensure only. The board is not authorized to prescribe the credit which an approved school

of nursing shall give toward an academic certificate or degree.

SEC. 9. Section 2787 of the Business and Professions Code is repealed.

SEC. 10. Section 2788 of the Business and Professions Code is amended to read:

2788. It shall be the duty of the board, through its executive officer, to inspect all schools of nursing in this state at such times as the board shall deem necessary. Written reports of the executive officer's visits shall be made to the board, which shall thereupon approve those schools of nursing that meet the requirements provided by the board.

Upon receiving the report of the executive officer, if the board determines that any approved school of nursing is not maintaining the standard required by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. If the defects are not corrected within a reasonable time, the school of nursing may be removed from the approved list and notice thereof in writing given to it.

CHAPTER 743

An act to amend Sections 14602, 14603, and 14651 of, to amend and renumber Section 15103 of, to repeal Sections 15101 and 15102 of, and to repeal and add Sections 14404 and 15100 to, the Financial Code, relating to credit unions.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 14404 of the Financial Code is repealed.

SEC. 2. Section 14404 is added to the Financial Code, to read:

14404. A credit union shall not invest more than the amounts permitted pursuant to regulations which shall be promulgated by the commissioner for the investments set forth in Sections 14402, 14403, 14650 and 14651.

SEC. 3. Section 14602 of the Financial Code is amended to read:

14602. (a) No credit union shall make any loan, extension of credit, or agreement to extend credit, without the written approval of a majority of the members of the credit committee or the credit manager or of a loan officer appointed as provided in this section.

(b) The credit committee or the credit manager may, with the approval of the board of directors, appoint one or more loan officers who shall be authorized to approve loan applications. Unless the credit union bylaws provide for the position of credit manager, any loan officer appointed pursuant to subdivision (b) must be a member of the credit union and may, but need not be, a member of the credit

committee or an officer or director of the credit union.

(c) A credit committee, a credit manager, and any loan officer shall not have the power to approve membership applications.

(d) No loan officers shall be permitted to approve any extension agreement of any delinquent loan or the refinancing of any delinquent loan except as prescribed in regulations promulgated by the commissioner.

(e) The credit committee, or in the alternative, the credit manager shall be provided with a record of each loan approved or not approved by any loan officer within seven days of such approval or disapproval.

(f) The credit manager shall prepare a weekly report to the chief executive officer or the general manager of the credit union containing the following:

(1) The number, amount, and, if applicable, the terms of any loan, any extension of credit, or any agreement to extend credit to a credit union member that was approved.

(2) The number, amount, and, if applicable, the terms of any loan, any extension of credit, or any agreement to extend credit to a credit union member that was denied.

(3) The dollar amount and number of months delinquent for each loan that is more than 45 days delinquent in order to permit the credit union to establish delinquency reserves as is required pursuant to regulations that may be issued by the commissioner from time to time. The board of directors shall review the credit manager's weekly reports no less frequently than on a monthly basis.

SEC. 4. Section 14603 of the Financial Code is amended to read:

14603. The credit committee, the credit manager, or a loan officer may approve in advance, upon their own motion or upon the application of any member, the extension of credit to any member and loans may be granted to such member within the limit of such extension of credit. Where an extension of credit has been approved, applications for loans need not be approved by the credit committee, the credit manager, or loan officer as long as the aggregate amount of such loan or loans does not exceed the limit of such extension of credit. The credit committee, the credit manager, or loan officer shall review, from time to time, all extensions of credit approved by them and any extension of credit approved for any member shall expire if such member becomes ineligible for a loan or becomes more than 90 days delinquent in his obligations to the credit union.

SEC. 5. Section 14651 of the Financial Code is amended to read:

14651. Every credit union may invest in the shares of stock of a corporation organized solely for the purpose of providing services to credit unions, providing such corporation is formed by an organization composed of credit unions. Every credit union may invest in the securities of any corporation which provides services to credit unions provided such investment is approved by the commissioner.

SEC. 6. Section 15100 of the Financial Code is repealed.

SEC. 7. Section 15100 is added to the Financial Code, to read:

15100. (a) The board of directors shall establish written policies which shall set forth the loan policies of the credit union. The written policies shall set forth the maximum amounts and terms for unsecured loans, the maximum amount and terms for secured loans, the schedule of interest rates established pursuant to Section 15000 for each type or class of unsecured and secured loan offered to members, the maximum maturity for any loan, or, in the case of an open-end loan, the rate of repayment for any type or class of open-end loan, the limitations, if any, which shall be placed on the authority of any loan officer appointed pursuant to Sections 14602 and 14603, and, subject to the provisions of subdivisions (b) and (c), the individual loan limits applicable to all members of the credit union. Any loan policy developed by the board of directors shall, insofar as possible, and, subject to individual credit worthiness, ensure equal access to funds available for loans.

(b) Notwithstanding the provisions for loans of subdivision (a), no credit union loan policy shall permit a credit union to extend credit to an individual credit union member whereby the total liability of that member exceeds 10 percent of the actual dollar amount of share instruments on deposit with the credit union.

(c) Notwithstanding the provisions of subdivision (b), no credit union loan policy shall permit a credit union to extend credit to any one family whereby the total liability of the family would be greater than the amount permitted by subdivision (b).

(d) Notwithstanding the provisions of subdivisions (a), (b) and (c), any loan made to a member which is not a natural person shall not result in liability to the credit union in excess of that member's investment in the credit union unless an exception is authorized in the credit union's bylaws and approved by the commissioner. Any lending activity permitted pursuant to this subdivision may be terminated by an order issued by the commissioner pursuant to Sections 14200 and 14204.

SEC. 8. Section 15101 of the Financial Code is repealed.

SEC. 9. Section 15102 of the Financial Code is repealed.

SEC. 10. Section 15103 of the Financial Code is amended and renumbered to read:

15101. Notwithstanding the provisions of Section 15100, if a loan is made for educational purposes and such loan would cause the aggregate of loans to any one family to exceed the limitations imposed by subdivision (c) of Section 15100, such educational loan shall not be included in computing the aggregate of loans pursuant to Section 15102, provided (1) that such educational loan is secured in accordance with subdivision (b) or (c) of Section 14955 and (2) that the aggregate amount of such educational loan exempted by this subdivision from subdivision (c) of Section 15100 shall not exceed ten thousand dollars ($10,000).

SEC. 11. Sections 1, 2, and 5 of this bill shall become operative on July 1, 1984.

CHAPTER 744

An act to amend Section 30212 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 30212 of the Public Resources Code is amended to read:

30212. (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14,

inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

CHAPTER 745

An act to add Article 9 (commencing with Section 120475) to Chapter 4 of Division 11 of the Public Utilities Code, relating to transit development boards.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Article 9 (commencing with Section 120475) is added to Chapter 4 of Division 11 of the Public Utilities Code, to read:

Article 9. Transit Service Dispute Resolution

120475. The board shall coordinate the operation of all regional public transit services which operate within the area under the jurisdiction of the board so as to achieve efficient operation thereof and shall establish procedures to resolve disputes between public transit operators and local agencies. The objective of the coordination is to ensure that regional operators, the local operators, and local public agencies do not compete or unnecessarily duplicate services, but assist each other to provide the maximum level of transit service to the general public at the lowest possible cost.

120476. The board shall act in full cooperation and coordination with the regional operators, the local operators, and the local public agencies in such matters as schedules, routes, and exchange of transfers. The role of the board in coordinating, reviewing, and resolving conflicts, approving plans, and developing programs shall be a cooperative effort with the operators and public agencies and shall be executed so as not to unnecessarily impede or slow the transportation planning and programming process. The board shall adopt procedures which shall include a provision that would provide a process whereby any operator or agency involved in a dispute could settle the matter without requiring board involvement.

120477. (a) The board shall resolve regional transit service disputes between local agencies and transit operators which provide services in the area, pursuant to the rules and regulations adopted by the board.

(b) In resolving a regional transit service dispute pursuant to rules and regulations it has adopted, the board, on a case-by-case basis, may, by affirmative vote of two-thirds of the voting members, resolve the dispute, notwithstanding Sections 99280 and 99281.

(c) Nothing in this article shall supersede the lawful authority of

any local public agency to regulate and provide for transit services within its jurisdiction or the duties and authority of the North San Diego County Transit Development Board pursuant to Sections 125105 and 125260.

(d) Regional service shall be characterized by operating speed above the system average, limited stops, and moderate service frequencies connecting different communities or cities.

120479. The rules and regulations adopted by the board shall include, but not be limited to, the following:

(a) Criteria to determine the definition and validity of a regional transit service dispute.

(b) Procedures for the submission of a regional transit service dispute to the board.

(c) The information, such as the matter in dispute, to be included in the notice to be sent to the parties in the regional transit service dispute.

(d) The procedure for mediation prior to a hearing before a transit coordination and service committee.

(e) The appointment, if mediation fails, of a transit coordination and service committee, consisting of board members, to hold a public hearing on the regional transit service dispute in the locality of the dispute and to make reports of its findings of fact and its recommendations regarding the dispute to the board.

(f) If the board exercises its authority pursuant to Section 120053 to assume the operation of the San Diego Transit Corporation, the adoption of one or more alternative procedures for the review and resolution of regional disputes involving the San Diego Transit Corporation, to be mutually agreed upon by the parties to the dispute.

(g) If the regional dispute involves one or more local agencies not within the area governed by the board, the adoption of one or more alternative procedures for the review and resolution of the dispute, to be mutually agreed upon by the parties to the dispute.

(h) Actions the board may take to resolve the dispute.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 746

An act to add Chapter 9 (commencing with Section 12110) to Division 5 of the Vehicle Code, relating to towing.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Chapter 9 (commencing with Section 12110) is added to Division 5 of the Vehicle Code, to read:

CHAPTER 9. TOWING

12110. (a) Except as provided in subdivision (b), no towing service shall provide and no person or public entity shall accept any direct or indirect commission, gift, or any compensation whatever from a towing service in consideration of arranging or requesting the services of a tow car. As used in this section, "arranging" does not include the activities of employees or principals of a provider of towing services in responding to a request for towing services.

(b) Subdivision (a) does not preclude a public entity otherwise authorized by law from requiring a fee in connection with the award of a franchise for towing vehicles on behalf of that public entity. However, the fee in such cases shall not exceed the amount necessary to reimburse the public entity for its actual and reasonable costs incurred in connection with the towing program.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 747

An act to amend Section 30517.5 of the Public Resources Code, relating to coastal resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 30517.5 of the Public Resources Code is amended to read:

30517.5. (a) Within 60 days from the effective date of this section, the commission shall establish a schedule for the submittal of all land use plans that have not been submitted, pursuant to Section 30501, to a former regional commission or the commission on

or before July 1, 1981. This schedule shall be based on the commission's assessment, in consultation with local governments, of each local government's current status and progress. The schedule shall specify that submittals may not be made sooner than nor later than certain specified dates and in no event later than January 1, 1983.

(b) If a local government fails to meet the schedule established pursuant to subdivision (a), the commission may take any of the following actions:

(1) Waive the deadlines for commission action on a submitted land use plan, or any portion thereof, as set forth in Sections 30511 and 30512.

(2) Prepare and adopt, after a public hearing but not sooner than January 1, 1984, a land use plan for the land area within the local government's jurisdiction. After adoption of the land use plan, the commission shall determine the permissibility of proposed developments pursuant to the provisions of the adopted plan. The affected local government may choose to adopt, in whole or in part, the commission's prepared and adopted land use plan in which event the commission shall certify the plan, in whole or in part, or it may continue to prepare its own land use plan consistent with the provisions of this chapter.

(3) Report the matter to the Legislature with recommendations for appropriate action.

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 for the extension of the date provided for in the act to be applicable during the current year, it is necessary that this act take effect immediately.

CHAPTER 748

An act to amend Section 1702.1 of, and to add Section 1702.2 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 1702.1 of the Public Utilities Code is amended to read:

1702.1. (a) The commission shall entertain complaints against any electrical, gas, water, heat, or telephone company under Sections 734, 735, and 736 where the amount of money claimed is one thousand five hundred dollars ($1,500) or less by an expedited

complaint procedure; provided, however, when the public interest so requires, the commission or presiding officer may at any time prior to the filing of a decision terminate the expedited complaint procedure and recalendar the matter for hearing under the commission's regular procedure.

(b) No attorney at law shall represent any party other than himself under the expedited complaint procedure.

(c) No pleading other than the complaint and answer shall be necessary. A hearing without a reporter shall be held within 30 days after the answer is filed.

(d) The parties shall have the right to file applications for rehearing pursuant to Section 1731. If the commission grants an application for rehearing, the rehearing shall be conducted under the commission's regular hearing procedure.

SEC. 2. Section 1702.2 is added to the Public Utilities Code, to read:

1702.2. (a) Except as provided in subdivision (b), any funds entrusted to the commission by any person or corporation filing a complaint against a public utility shall be deposited in trust by the commission in the custody of the Treasurer, as specified in Section 16305.3 of the Government Code.

(b) If the amount of the funds entrusted to the commission by a person or corporation filing a complaint against a public utility exceeds twenty thousand dollars ($20,000), the commission may deposit the funds in trust in an insured account with a bank or a federal or state savings and loan association, bearing interest at rates up to the maximum permitted by law. The commission shall pay these funds, together with the interest paid thereon, to the party specified in the commission's order or decision on that complaint.

CHAPTER 749

An act to amend Sections 39802 and 39803 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 39802 of the Health and Safety Code is amended to read:

39802. The state board may subvene up to one dollar ($1) for every dollar budgeted for use by any of the following:

(a) A district whose boundaries include an entire air basin.

(b) Districts whose boundaries together include an entire air basin and who are parties to one joint powers agreement or other enforceable agreement which provides for all of the following:

(1) Uniform rules and regulations among all districts, excluding administrative rules and regulations.

(2) At least four meetings per year of the basinwide air pollution control council formed under Section 40900, or an equivalent procedure for basinwide consideration of policy matters.

(3) Suitable sharing of qualified air pollution personnel and equipment.

Subventions under this section shall not exceed twenty-three cents ($0.23) per capita, but shall not be less than eighteen thousand dollars ($18,000) for any district, if the district provides the required matching funds. Any county district which merged after January 1, 1980, into a unified district or regional district pursuant to this division shall have its minimum subvention under this section transferred to the unified district or regional district if the unified district or regional district provides the required matching funds. A unified district or regional district which has a county district minimum subvention transferred to it under this section may not also receive subventions under the per capita provisions of this section. A subvention made pursuant to Section 39803 shall preclude subvention under this section.

SEC. 2. Section 39803 of the Health and Safety Code is amended to read:

39803. In air basins where funds are not subvened pursuant to Section 39802, the state board may subvene up to two dollars ($2) for every three dollars ($3) budgeted by a district. Subventions under this section shall not exceed eighteen and four-tenths cents ($0.184) per capita, but shall not be less than twelve thousand dollars ($12,000) for any district, if the district provides the required matching funds. Any county district which merged after January 1, 1980, into a unified district or regional district pursuant to this division shall have its minimum subvention under this section transferred to the unified district or regional district if the unified district or regional district provides the required matching funds. A unified district or regional district which has a county district minimum subvention transferred to it under this section may not also receive subventions under the per capita provisions of this section.

CHAPTER 750

An act to add and repeal Chapter 3 (commencing with Section 10200) of Part 7 of the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 12, 1983 Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Chapter 3 (commencing with Section 10200) is added to Part 7 of the Education Code, to read:

CHAPTER 3. YOUTH SUICIDE PREVENTION SCHOOL PROGRAM

10200. The Legislature makes the following findings and declarations of intent:

(a) A statewide youth suicide prevention program is essential in order to address the continuing problem of youth suicide throughout the state.

(b) The suicide problem often exists in combination with other problems, such as drug abuse and alcohol use.

(c) A suicide prevention program for young people must emphasize a partnership between educational programs at the state and local levels and community suicide prevention and crisis center agencies. In order to facilitate this partnership, the Legislature finds and declares that it is of vital importance that a statewide primary prevention program be established with shared responsibility at both the state and county levels, and that this cooperation shall be a major tool in efforts to achieve the successful prevention of youth suicide.

(d) The program established pursuant to this chapter is intended by the Legislature to delegate primary responsibility for the development of a youth suicide prevention program to existing county suicide prevention agencies through the establishment of a demonstration program. The Legislature recognizes that county suicide prevention and crisis center agencies are best suited for dealing with youth suicide, as demonstrated by their past success in youth suicide prevention in California.

10205. (a) In view of the purpose and intent of this chapter, as expressed in Section 10200, highest priority for program funding under this chapter shall be designated to those counties which emphasize joint school-community youth suicide prevention programs.

(b) It is the intent of the Legislature that, to the maximum extent possible, funds made available for the purpose of this chapter shall be used to support existing programs which have demonstrated a capacity to meet the needs of young people and families in the prevention of suicide, and to support two demonstration youth suicide prevention school programs, one of which shall be located in a Northern California county, the other in a Southern California county.

(c) In view of the urgent need to begin development of a statewide youth suicide prevention program at the lowest cost to the state, and with the participation of existing suicide prevention and crisis center agencies to the greatest extent possible, and in order to ensure that the program will meet the needs of all economic and ethnic groups in California, the Legislature hereby designates San

Mateo County and Los Angeles County as the locations of the two demonstration youth suicide prevention school programs.

10210. (a) The demonstration programs in San Mateo and Los Angeles counties, hereinafter referred to as "demonstration counties," shall be maintained for a period not to exceed three years from the operative date of this chapter, according to the following schedule:

(1) Planning and development of the county demonstration program shall be completed by June 30, 1985.

(2) Implementation of the county demonstration program shall be completed by June 30, 1986.

(3) Each demonstration county shall evaluate its demonstration program and submit a report of its findings to the State Department of Education, the Legislature, and the Governor on or before January 1, 1987.

10212. (a) Until October 1, 1984, any county in the state may, through its board of education, submit a request to participate in the planning and development of the statewide program to the State Department of Education.

(b) Each demonstration county shall designate the suicide prevention and crisis centers located within the county to serve as coordinating centers for the planning and development of the statewide youth suicide prevention school program. The State Department of Education, in cooperation with the designated coordinating centers, shall publish procedures for the participation of all interested counties in the planning and development of the statewide program.

(c) Planning and development of the statewide program shall be completed by June 30, 1985.

10213. No provision of this chapter shall be construed to prohibit the State Department of Education from providing financial assistance from the Youth Suicide Prevention School Program Fund to other counties, in addition to the demonstration counties, for purposes of youth suicide prevention school programs, including, but not limited to, those programs set forth in Section 10215.

10214. Funds received by a county board of education in order to carry out the purposes of this chapter shall be deposited in a separate county Youth Suicide Prevention School Program Fund established for that purpose. On or before January 1 of each year, any county which has received state funds for the purposes of this chapter shall provide the Director of Finance, the Legislature, and the State Department of Education with an accounting of expenditures for its youth suicide prevention school program and revenues received for the program from sources other than the state, and with a program evaluation report for the previous year.

10215. The youth suicide prevention school programs established pursuant to Section 10210 shall plan, fund, and implement educational programs, which may include any of the following:

(a) Classroom instruction designed to achieve any of the following

objectives:

(1) Encourage sound decision making and promote ethical development.

(2) Increase pupils' awareness of the relationship between drug and alcohol use and youth suicide.

(3) Teach pupils to recognize signs of suicidal tendencies, and other facts about youth suicide.

(4) Inform pupils of available community youth suicide prevention services.

(5) Enhance school climate and relationships between teachers, counselors, and pupils.

(6) Further cooperative efforts of school personnel and community youth suicide prevention program personnel.

(b) Nonclassroom school or community based alternative programs, including, but not limited to:

(1) Positive peer group programs.

(2) A 24-hour "hotline" telephone service, staffed by trained professional counselors.

(3) Programs to collect data on youth suicide attempts.

(4) Intervention and postvention services.

(5) Parent education and training programs.

(c) Teacher training programs.

10220. The Department of Education shall enter into an interagency agreement with the appropriate county board of education for the implementation of an approved Youth Suicide Prevention School Program.

10230. The Department of Education, the county board of education, school districts, and the county suicide prevention agency in each county maintaining a program pursuant to this chapter shall establish procedures for the cooperative collection and dissemination of data regarding the implementation of the provisions of this chapter.

10235. The Department of Education shall submit an annual report to the Legislature regarding the current status and effectiveness of the programs established pursuant to this chapter.

10240. There is hereby created in the State Treasury a fund which shall be known as the Youth Suicide Prevention School Program Fund. The fund shall consist of funds appropriated by the annual Budget Act, as well as any private sector money as may be made available. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated. The Department of Education shall administer the fund for the purposes of this chapter, and shall use no more than 5 percent of the balance of the fund to meet administrative costs.

10242. The provisions of this chapter shall become operative on July 1, 1984.

10245. This chapter shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 2. It is the intent of the Legislature that the sum of three hundred thousand dollars ($300,000) be appropriated from the General Fund to the Youth Suicide Prevention School Program Fund by the 1984–85 Budget Act. In the event that a lesser amount or no money is appropriated, it is the intent of the Legislature that the Youth Suicide Prevention School Program be implemented only to the extent that funds are made available.

SEC. 2.5. It is the intent of the Legislature that the Department of Education use a part of the amount appropriated from the General Fund to the Youth Suicide Prevention School Program Fund by the 1984–85 Budget Act for the purpose of complying with Section 10235 of the Education Code. It is also the intent of the Legislature that the costs of complying with Section 10235 of the Education Code not be included in calculating the 5-percent limitation on expenditures for administrative costs imposed by Section 10240 of the Education Code.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 751

An act to amend Sections 12331 and 16429.1 of the Government Code, relating to public finance, and making an appropriation therefor.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 12331 of the Government Code is amended to read:

12331. Notwithstanding any general or specific law to the contrary, whenever any law or whenever any state agency or officer requires that a pledge of money be made to secure the performance of an act or duty, the pledges shall first be approved by the governing or administrating state agency or officer and, upon the written order of the state agency or officer, shall be deposited with the Treasurer in accordance with Sections 16305 to 16305.7, inclusive.

All money deposited with the Treasurer pursuant to this section shall be held by the Treasurer subject to law and the written order or instructions of the state agency or official making or authorizing

the deposit and the state shall be responsible for the safe return thereof.

SEC. 2. Section 16429.1 of the Government Code is amended to read:

16429.1. There is in the State Treasury the Local Agency Investment Fund, which fund is hereby created. Notwithstanding Section 13340, all money in the fund is hereby appropriated without regard to fiscal years to carry out the purpose of this section. The Controller shall maintain a separate account for each governmental unit having deposits in this fund.

Notwithstanding any other provisions of law, a local government official, with consent of the governing body of that agency, having money in its treasury not required for immediate needs, may remit the money to the Treasurer for deposit in the Local Agency Investment Fund for the purpose of investment.

Notwithstanding any other provisions of law, an officer of any nonprofit corporation whose membership is confined to public agencies or public officials, or an officer of a qualified quasi-governmental agency, with the consent of the governing body of that agency, having money in its treasury not required for immediate needs, may remit the money to the Treasurer for deposit in the Local Agency Investment Fund for the purpose of investment.

The local governmental unit, the nonprofit corporation, or the quasi-governmental agency has the exclusive determination of the length of time its money will be on deposit with the Treasurer.

The Local Investment Advisory Board shall determine those quasi-governmental agencies which qualify to participate in the Local Agency Investment Fund.

The Treasurer may refuse to accept deposits into the fund if, in the judgment of the Treasurer, the deposit would adversely affect the state's portfolio.

The Treasurer may invest the money of the fund in securities prescribed in Section 16430. The Treasurer may elect to have the money of the fund invested through the Surplus Money Investment Fund as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2.

Money in the fund shall be invested to achieve the objective of the fund which is to realize the maximum return consistent with safe and prudent treasury management.

All instruments of title of all investments of the fund shall remain in the Treasurer's vault or be held in safekeeping under control of the Treasurer in any federal reserve bank, or any branch thereof, or the Federal Home Loan Bank of San Francisco, with any trust company, or the trust department of any state or national bank.

Immediately at the conclusion of each calendar quarter, all interest earned and other increment derived from investments shall be distributed by the Controller to the contributing governmental units, nonprofit corporations, and quasi-governmental agencies in amounts directly proportionate to the respective amounts deposited

in the Local Agency Investment Fund and the length of time the amounts remained therein. An amount equal to the reasonable costs incurred in carrying out the provisions of this section, not to exceed a maximum of one-quarter of 1 percent of the earnings of this fund, shall be deducted from the earnings prior to distribution. The amount of this deduction shall be credited as reimbursements to the state agencies having incurred costs in carrying out the provisions of this section.

The Treasurer shall prepare for distribution a monthly report of investments made during the preceding month.

CHAPTER 752

An act to add Sections 18024, 18024.2, 18024.3, 18024.4, 18024.5, and 18024.6 to the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 18024 is added to the Health and Safety Code, to read:

18024. (a) If, upon inspection or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is acting in the capacity, or engaging in the business, of a dealer within this state without having a license in good standing therefor, and the person is not otherwise exempt pursuant to subdivision (b) of Section 18002.6, the department may issue a citation to that person in writing, describing with particularity the basis of the citation. Each citation may contain an order of abatement and assessment of a civil penalty not to exceed two thousand dollars ($2,000). All civil penalties collected under this section shall be deposited in the Mobilehome-Manufactured Home Revolving Fund provided for in Section 18016.5.

(b) The department shall adopt regulations prescribing procedures for issuance of citations under this section and covering the assessment of a civil penalty which shall give due consideration to the gravity of the violation, the good faith of the person cited, and any history of previous violations.

(c) The sanctions authorized under this section shall be separate from, and in addition to, all other civil or criminal remedies.

SEC. 2. Section 18024.2 is added to the Health and Safety Code, to read:

18024.2. A citation under Section 18024 shall be issued by the department within three years after the act or omission which is the basis for the citation.

SEC. 3. Section 18024.3 is added to the Health and Safety Code,

to read:

18024.3. Any person served with a citation under Section 18024 may appeal to the department within 30 days from the receipt of the citation with respect to violations alleged, scope of the order of abatement, or amount of civil penalty assessed. The citation shall inform the person served that an appeal is required to be filed within 30 days of receipt by the person of the citation. The citation shall be delivered by personal service or substitution.

SEC. 4. Section 18024.4 is added to the Health and Safety Code, to read:

18024.4. If, within 30 days from receipt of the citation, the person cited fails to notify the department that he or she intends to appeal the citation, the citation shall be deemed final. However, the person cited may obtain judicial review in accordance with Section 11523 of the Government Code. The person cited shall receive court costs and attorney's fees if he or she prevails. The 30-day period may be extended by the department for good cause.

SEC. 5. Section 18024.5 is added to the Health and Safety Code, to read:

18024.5. If the person cited under Section 18024 timely notifies the department that he or she intends to contest the citation, the department shall afford an opportunity for a hearing. The department shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation or directing other appropriate relief. The proceedings under this section 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 department shall have all the powers granted therein.

SEC. 6. Section 18024.6 is added to the Health and Safety Code, to read:

18024.6. After the exhaustion of the review procedures provided for in Sections 18024.3 to 18024.5, inclusive, the department may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply with the order of abatement. The application, which shall include a certified copy of the final order of the department, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

CHAPTER 753

An act to amend Section 39619 of the Education Code, relating to school property.

[Approved by Governor September 12, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 39619 of the Education Code is amended to read:

39619. (a) Whenever, in any given fiscal year, 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 and any proceeds from the sale of district property which were expended for the purpose of the district deferred maintenance account, 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 Section 42237 or 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 ½ percent of the total general funds and adult education 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) of Part 10.

(c) Notwithstanding subdivision (a), in order to be eligible to receive state aid pursuant to subdivision (b) no district shall be required to budget from local district funds an amount greater than ½ percent of the total general funds and adult education funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

CHAPTER 754

An act to amend Section 11105.1 of the Penal Code, and to amend Sections 5300, 5300.5, 5301, and 5328.2 of, and to repeal and add Section 5304 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 11105.1 of the Penal Code is amended to read:

11105.1. (a) The following persons shall be furnished with state summary criminal history information when needed in the course of their duties:

(1) The director of a state hospital or other treatment facility to which a person is committed for treatment under Sections 1026 and 1370 of the Penal Code, or Section 5250, if committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(2) The county mental health director or the director's designee under any of the following conditions:

(A) When ordered to evaluate a defendant for the court under paragraph (2) of subdivision (a) of Section 1370 and subdivision (2) of Section 1026 of the Penal Code, or paragraph (2) of subdivision (a) of former Section 6316 of the Welfare and Institutions Code.

(B) When ordered to provide outpatient treatment and supervision services under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(C) When a patient is committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code.

(3) The officer providing conservatorship investigation under Section 5354 of the Welfare and Institutions Code in cases where referral for conservatorship is made while the proposed conservatee is being treated under Section 1026 or 1370 of the Penal Code or Section 5250, if committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(b) In all instances pursuant to subdivision (a), the criminal history record shall be transmitted by the court with the request for evaluation or during the conservatorship investigation or with the order committing the person to a treatment facility or approving outpatient status, except that the director of a state hospital, the county mental health director, and the officer providing conservatorship investigation may receive the state summary criminal history information from the law enforcement agency that referred the person for evaluation and treatment under Section 5150 of the Welfare and Institutions Code if the person has been subsequently committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code. Information obtained under this subdivision shall not be included in any document which will become part of a public record.

SEC. 2. Section 5300 of the Welfare and Institutions Code is amended to read:

5300. At the expiration of the 14-day period of intensive treatment, a person may be confined for further treatment pursuant to the provisions of this article for an additional period, not to exceed

180 days if one of the following exists:

(a) The person has attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(b) The person had attempted, or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody and who presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

(c) The person had made a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and the person presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

Any commitment to a licensed health facility under this article places an affirmative obligation on the facility to provide treatment for the underlying causes of the person's mental disorder.

Amenability to treatment is not required for a finding that any person is a person as described in subdivisions (a), (b), or (c). Treatment programs need only be made available to these persons. Treatment does not mean that the treatment be successful or potentially successful, and it does not mean that the person must recognize his or her problem and willingly participate in the treatment program.

SEC. 2.5. Section 5300.5 of the Welfare and Institutions Code is amended to read:

5300.5. For purposes of this article:

(a) "Custody" shall be construed to mean involuntary detainment under the provisions of this part uninterrupted by any period of unconditioned release from a licensed health facility providing involuntary care and treatment.

(b) Conviction of a crime is not necessary for commitment under this article.

(c) Demonstrated danger may be based on assessment of present mental condition, which is based upon a consideration of past behavior of the person within six years prior to the time the person attempted, inflicted, or threatened physical harm upon another, and other relevant evidence.

SEC. 2.7. Section 5301 of the Welfare and Institutions Code is amended to read:

5301. At any time during the 14-day intensive treatment period the professional person in charge of the licensed health facility, or his or her designee, may ask the public officer required by Section 5114 to present evidence at proceedings under this article to petition the superior court in the county in which the licensed health facility

providing treatment is located for an order requiring such person to undergo an additional period of treatment on the grounds set forth in Section 5300. Such petition shall summarize the facts which support the contention that the person falls within the standard set forth in Section 5300. The petition shall be supported by affidavits describing in detail the behavior which indicates that the person falls within the standard set forth in Section 5300.

Copies of the petition for postcertification treatment and the affidavits in support thereof shall be served upon the person named in the petition on the same day as they are filed with the clerk of the superior court.

The petition shall be in the following form:

Petition for Postcertification Treatment of a Dangerous Person

I, _____, (the professional person in charge of the _____ intensive treatment facility) (the designee of _____ the professional person in charge of the _____, treatment facility) in which _____ has been under treatment pursuant to the certification by _____ and _____, hereby petition the court for an order requiring _____ to undergo an additional period of treatment, not to exceed 180 days, pursuant to the provisions of Article 6 (commencing with Section 5300) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Such petition is based upon my allegation that (a) _____ has attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation, and that, by reason of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others, or that (b) _____ had attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and that he or she presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others, or that (c) _____ had made a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and that he or she presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

My allegation is based upon the following facts:

_____

_____

_____

_____

_____

_____

_____

This allegation is supported by the accompanying affidavits signed by _____.

Signed _____

The courts may receive the affidavits in evidence and may allow the affidavits to be read to the jury and the contents thereof considered in rendering a verdict, unless counsel for the person named in the petition subpoenas the treating professional person. If such treating professional person is subpoenaed to testify, the public officer, pursuant to Section 5114, shall be entitled to a continuance of the hearing or trial.

SEC. 3. Section 5304 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 5304 is added to the Welfare and Institutions Code, to read:

5304. (a) The court shall remand a person named in the petition for postcertification treatment to the custody of the State Department of Mental Health or to a licensed health facility designated by the county of residence of that person for a further period of intensive treatment not to exceed 180 days from the date of court judgment, if the court or jury finds that the person named in the petition for postcertification treatment has done any of the following:

(1) Attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(2) Attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(3) Expressed a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and who presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

(b) The person shall be released from involuntary treatment at the expiration of 180 days unless the public officer, pursuant to Section 5114, files a new petition for postcertification treatment on the grounds that he or she has attempted, inflicted, or made a serious threat of substantial physical harm upon another during his or her period of postcertification treatment, and he or she is a person who by reason of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others. The new petition for postcertification treatment shall be filed

in the superior court in which the original petition for postcertification was filed.

(c) The county from which the person was remanded shall bear any transportation costs incurred pursuant to this section.

SEC. 5. Section 5328.2 of the Welfare and Institutions Code is amended to read:

5328.2. Notwithstanding Section 5328, movement and identification information and records regarding a patient who is committed to the department, state hospital, or any other public or private mental health facility approved by the county mental health director for observation or for an indeterminate period as a mentally disordered sex offender, or regarding a patient who is committed to the department, to a state hospital, or any other public or private mental health facility approved by the county mental health director under Section 1026 or 1370 of the Penal Code or receiving treatment pursuant to Section 5300 of this code, shall be forwarded immediately without prior request to the Department of Justice. Except as otherwise provided by law, information automatically reported under this section shall be restricted to name, address, fingerprints, date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence. The Department of Justice may in turn furnish information reported under this section pursuant to Section 11105 or 11105.1 of the Penal Code. It shall be a misdemeanor for recipients furnished with this information to in turn furnish the information to any person or agency other than those specified in Section 11105 or 11105.1 of the Penal Code.

SEC. 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to Section 1 of this act. It is recognized, however, that a court may pursue any remedies available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code to obtain reimbursement if there are any additional costs incurred by a court as a result of Section 1 of this act.

SEC. 7. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 755

An act to amend Sections 5152.1 and 5328 of, and to add Section 5250.1 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 5152.1 of the Welfare and Institutions Code is amended to read:

5152.1. The professional person in charge of the facility providing 72-hour evaluation and treatment, or his or her designee, shall notify the county mental health director or the director's designee and the peace officer who makes the written application pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention if all of the following conditions apply:

(a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

(b) The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.

If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer, agency, or designee shall destroy that record two years after receipt of notification.

SEC. 2. Section 5250.1 is added to the Welfare and Institutions Code, to read:

5250.1. The professional person in charge of a facility providing 14-day intensive treatment, pursuant to Section 5250, or that person's designee, shall notify the county mental health director, or the director's designee, and the peace officer who made the original written application for 72-hour evaluation pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, that the person admitted pursuant to the application has been released unconditionally if all of the following conditions apply:

(a) The peace officer has requested notification at the time he or she makes the application for 72-hour evaluation.

(b) The peace officer has certified in writing at the time he or she made the application that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

(c) The notice is limited to the person's name, address, date of admission for 72-hour evaluation, date of certification for intensive

treatment, and date of release.

If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer, agency, or designee shall destroy that record two years after receipt of notification.

SEC. 3. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a masters degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or

boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____
Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only

be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 3.5. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does

not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's

designee, or to a law enforcement officer, or the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and SB 162. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 5328 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 162, in which case Section 3 of this bill shall not become operative.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 756

An act to amend Section 5012.5 of the Education Code, to amend Sections 6490.1 10010.5, 10220, 10235, 10327, 22840.5, 23520 and 23521.5 of, to add Section 10236 to, and to repeal Section 10228 of, the Elections Code, relating to elections.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 5012.5 of the Education Code is amended to read:

5012.5. Notwithstanding the provisions of Section 5012, if a declaration of candidacy for an incumbent member of a school district or community college district governing board or of a county board of education is not filed by 5 p.m. on the 88th day before the election, any person, other than the incumbent, shall have until 5 p.m. on the 83rd day before an election to file a declaration of candidacy for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 2. Section 6490.1 of the Elections Code is amended to read:

6490.1. Notwithstanding the provisions of Section 6490 or any other provision of the law, if nomination documents for an incumbent officer of a county are not delivered by 5 p.m. on the 88th day before the direct primary election, any person other than the incumbent shall have until 5 p.m. on the 83rd day before the election to file nomination documents for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 3. Section 10010.5 of the Elections Code is amended to read:

10010.5. In each county, the county central committee of each qualified political party may supply to its county clerk, not less than 60 days prior to the direct primary election, a party contributor envelope or a one-page letter, in which both sides may be utilized, to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. In lieu of supplying the clerk with a sufficient number of copies of the one-page letter, a county central committee may supply the clerk, not less than 74 days before the direct primary election, with the text of the letter and request the clerk to print, or cause to be printed, a sufficient number of copies of the letter to accommodate the mailing. The clerk shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by the inclusion or printing, or both. The clerk may, prior to acting pursuant to this section, require the county committee to post a bond to ensure this reimbursement.

Each envelope or letter shall contain a space for the name and address of the contributor and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope or letter shall not contain words critical of any other political party.

All funds received by the return of such party contributor envelopes or in response to the letters shall be kept separate from all

other funds and shall be kept in a fund (account) to be established in each county under a trusteeship consisting of the chairman and treasurer of the county central committee plus a third trustee resident in the respective county to be appointed by the chairman of the state central committee. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and the portion allocated to candidates shall be disbursed only to candidates for state office.

In the case of the Democratic Party and the Republican Party all such funds received shall, in turn, be paid out in the following manner: one-third to the state central committee of the party, one-third to the county central committee of the party for that county, and one-third divided equally among the nominees of the party to represent congressional, State Senate and Assembly districts located in the county. In the event that the State Senate seat is not up for election, the share for that office shall be allotted equally between the nominees for Congress and the Assembly.

In the event that a district is located only partially within a county, the nominee of the party representing such district shall receive a proportionate share of the money allocated to nominees based on the population of that portion of the district which is located within the county.

Nothing in this section shall be construed to require the county central committee of one party to disburse funds received pursuant to this section to a state or county central committee or nominee of another party.

SEC. 4. Section 10220 of the Elections Code is amended to read:

10220. In the case of candidates for delegate to national convention, there shall be printed in boldface gothic type, not smaller than 12-point, across the column above the names of the persons preferred by the groups of candidates for delegates, the words, "President of the United States." The words "Vote for one group only" shall extend to the extreme right-hand margin of the column and over the voting square.

In the case of candidates for President and Vice President, the words "Vote for One Party" shall appear just below the heading "President and Vice President" and shall be printed so as to appear above the voting squares for that office. The heading "President and Vice President" shall be printed in boldface 12-point gothic type and shall be centered above the names of the candidates.

In the case of candidates for Justice of the Supreme Court and court of appeal, within the rectangle provided for each such candidate and immediately above the name of each such candidate, there shall appear the following: "For (designation of judicial office)." There shall be as many such headings as there are candidates for such judicial offices and such a heading shall not apply to more than one such judicial office. Underneath each heading shall appear the words "Shall (name of Justice) be elected to the office for the term prescribed by law?"

In the case of all other candidates, each group of candidates to be voted on shall be preceded by the designation of the office for which they are running and the words "vote for one" or "vote for no more than two" or more according to the number to be nominated or elected. The designation of the office shall be printed flush with the left-hand margin in boldfaced gothic type not smaller than 8-point. The words, "vote for _____" shall extend to the extreme right-hand margin of the column and over the voting square. The designation of the office and the directions for voting shall be separated from the candidates by a light line. There shall be no line between the headings for federal or legislative offices and the designation of the office and the directions for voting.

SEC. 5. Section 10228 of the Elections Code is repealed.

SEC. 6. Section 10235 of the Elections Code is amended to read:

10235. The ballots used when voting upon a proposed county, city, or district ordinance submitted to the voters of the respective local government as an initiative measure pursuant to Division 5 (commencing with Section 3500) shall have printed on them the words "Shall the ordinance (stating the nature thereof) be adopted?" Opposite the statement of the ordinance to be voted on, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption of the ordinance. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

SEC. 7. Section 10236 is added to the Elections Code, to read:

10236. The ballots used when voting upon a state, county, city, or district statute or ordinance referred to the voters of the respective jurisdiction as a referendum measure pursuant to Division 5 (commencing with Section 3500) shall have printed on them the words "Shall the statute (or ordinance) (stating the nature thereof, including any identifying number or title) be adopted?" Opposite the statement of the statute or ordinance to be voted on and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption of the ordinance or statute. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

SEC. 8. Section 10327 of the Elections Code is amended to read:

10327. The statement of measures submitted to the voters may be abbreviated on the ballot, provided that each and every statement of measures on the ballot is abbreviated. The statement shall contain, where possible, not more than 20 words of each measure to be voted on, followed by the words, "Yes" and "No," or preceded by the words "For" and "Against." Abbreviation of measures to be voted on throughout the state shall be composed by the Attorney General and shall be a condensed statement of the ballot title prepared by him.

SEC. 9. Section 22840.5 of the Elections Code is amended to read:

22840.5. Notwithstanding the provisions of Sections 22836 and 22840, if nomination papers for an incumbent officer of the city are not filed by 5 p.m. on the 68th day before the election, the voters shall have until 5 p.m. on the 63rd day before the election to nominate candidates other than the incumbent for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 10. Section 23520 of the Elections Code is amended to read:

23520. If, by 5 p.m. on the 83rd day prior to the day fixed for the general district election: only one person has been nominated for any elective office to be filled at that election; or no one has been nominated for such office; or in the case of directors to be elected from the district at large, the number of nominees for director at large does not exceed the number of offices of director at large to be filled at that election; or in the case of directors to be nominated by division and elected at large, the number of nominees for director at large from a division does not exceed the number required to be elected director at large nominated from that division, and if a petition signed by 10 percent of the voters or 50 voters, whichever is the smaller number, in the district, or division if elected by division, requesting that the general district election be held has not been presented to the officer conducting the election, he or she shall submit a certificate of these facts to the supervising authority and request that the supervising authority, at a regular or special meeting held prior to the last Monday before the last Friday in November in which the election is held, appoint to such office or offices the person or persons, if any, who have been nominated. The supervising authority shall make such appointments. If no person has been nominated for any office, the supervising authority shall appoint any person to the office who is qualified on the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a general district election for such office.

Where a director must be appointed to represent a division, all or most of which is not within the county governed by the supervising authority, then the board of supervisors of the county within which all or most of that division is located shall be the body to which request for appointment is made and which shall make such appointment.

SEC. 11. Section 23521.5 of the Elections Code is amended to read:

23521.5. Notwithstanding the provisions of Section 23512, if nomination papers for an incumbent officer of a district are not filed by 5 p.m. on the 88th day before the general district election, any person other than the incumbent shall have until 5 p.m. on the 83rd day before the election to file nomination papers for the elective office.

This section is not applicable where there is no incumbent eligible

to be elected.

SEC. 12. Section 23521.5 of the Elections Code is amended to read:

23521.5. Notwithstanding any other provision of law, in any district or agency election, if nomination papers for an incumbent elective officer of a district are not filed by 5 p.m. on the 88th day before the general district election, any person other than the incumbent shall have until 5 p.m. on the 83rd day before the election to file nomination papers for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 13. Section 12 of this bill incorporates amendments to Section 23521.5 of the Elections Code proposed by both this bill and AB 1459. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 23521.5 of the Elections Code, and (3) this bill is enacted after AB 1459, in which case Section 11 of this bill shall not become operative.

CHAPTER 757

An act to amend Sections 3052, 3057, and 6052 of the Penal Code, relating to prisons.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 3052 of the Penal Code is amended to read:

3052. The Board of Prison Terms shall have the power to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside the prison buildings and enclosures when eligible for parole.

SEC. 2. Section 3057 of the Penal Code is amended to read:

3057. (a) Confinement pursuant to a revocation of parole in the absence of a new conviction and commitment to prison under other provisions of law, shall not exceed 12 months, except as provided in subdivision (c).

(b) Upon completion of confinement pursuant to parole revocation without a new commitment to prison, the inmate shall be released on parole for a period which shall not extend beyond that portion of the maximum statutory period of parole specified by Section 3000 which was unexpired at the time of each revocation.

(c) Notwithstanding the limitation in subdivision (a) upon confinement pursuant to a parole revocation, the board may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed

by the parolee while confined pursuant to that parole revocation. Upon a finding of good cause to believe that a parolee has committed a subsequent act of misconduct and utilizing procedures governing parole revocation proceedings, the board may extend the period of confinement pursuant to parole revocation as follows: (1) not more than 180 days for an act punishable as a felony whether or not prosecution is undertaken, (2) not more than 90 days for an act punishable as a misdemeanor, whether or not prosecution is undertaken, and (3) not more than 30 days for an act defined as a serious disciplinary offense pursuant to subdivision (a) of Section 2932.

SEC. 3. Section 6052 of the Penal Code is amended to read:

6052. (a) On January 1, 1945 (hereinafter referred to as the effective date), the provisions of Article VII and the term "state civil service" shall include all officers and employees who on the effective date are within one of the following classes:

Class 1. Officers and employees (i) holding positions on July 1, 1944, exempt from civil service under Section 4 of Article VII of the Constitution, (ii) either continuously for six months prior to January 1, 1945, in the service of the Board of Prison Directors, the wardens, the department, the director, or any of them or, if not in such service continuously, the lack of continuity was due to service for which a right to return to the position vacated is granted under the State Civil Service Act, and (iii) holding a position subject to Section 6051 on the effective date.

Class 2. Officers and employees (i) holding positions on July 1, 1944, exempt from civil service under Section 4 of Article VII of the Constitution, (ii) on the effective date absent due to service for which a right to return is granted by the State Civil Service Act, and (iii) otherwise continuously for six months prior to January 1, 1945, employed in the service of the Board of Prison Directors, the wardens, the department or any of them.

(b) Such personnel shall be included in the state civil service in permanent positions subject to a probationary period pursuant to Article 6 (commencing with Section 19170) of Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code, the probationary period to begin with respect to class 2 personnel from the date they resume their position.

(c) An officer or employee, directly or indirectly, entitled to or having permanent status under this section, who is displaced by one having a right of return shall be accorded the same rights to elect demotion in lieu of layoff granted by Sections 19530 to 19541, inclusive, of the Government Code as though he had had permanent status at all times in any previous position.

(d) The State Civil Service Act shall govern with respect to conflicting claims to the same position after the effective date, the same as though the position were at all times subject to civil service.

(e) After the effective date the director shall be the appointing authority for all positions not otherwise provided for and, pursuant

to the State Civil Service Act, may employ and fix the compensation for the personnel for such positions.

(f) Appointees of the Governor and persons holding positions designated pursuant to Section 4 of Article VII (for the purposes of which section the Board of Prison Terms, the Youth Authority and the Director of Corrections shall be considered separate boards, commissions and officers) shall remain exempt from civil service.

(g) "Right of return" and "right to return" as used in this section refer to rights expressly provided by the State Civil Service Act to return to a position after military service in time of war or during a period of preparation for national defense or service as a seaman as described in Section 19393 of the Government Code, and refers to rights which may hereafter be granted expressly by the State Civil Service Act to return to a position after service to the nation.

CHAPTER 758

An act to amend Section 10217 of the Elections Code, and to add Section 36503.7 to the Government Code, relating to elections.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 10217 of the Elections Code is amended to read:

10217. The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape, and texture. The capsules shall be placed in a container which shall be shaken vigorously in order to mix them thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting random order of letters constitutes the randomized alphabet which is to be used in the same manner as the conventional alphabet in determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.

(b) There shall be four such drawings, three in each even-numbered year and one in each odd-numbered year. Each drawing shall be held at 11 a.m. on the date specified in this

subdivision. The results of each drawing shall be mailed immediately to each county clerk or other official responsible for conducting an election to which the drawing is applicable who shall use it in determining the order on the ballot of the names of the candidates for office.

The first such drawing shall take place on the 62nd day before the April general law city elections and shall apply to those elections and any other elections held at the same time.

The second shall take place on the 82nd day before the direct primary in June of an even-numbered year and shall apply to all candidates on the ballot in that election.

The third shall take place on the 82nd day before the November general election of an even-numbered year and shall apply to all candidates on the ballot in the November general election.

In the case of the June primary election and the November general election, the Secretary of State shall certify and transmit to each county clerk the order in which the names of federal and state candidates, with the exception of candidates for State Senate and Assembly, shall appear on the ballot. The clerk shall determine the order on the ballot of all other candidates using the appropriate randomized alphabet for that purpose.

The fourth drawing shall take place on the 82nd day before the first Tuesday after the first Monday in November of the odd-numbered year and shall apply to all candidates on the ballot in the elections held on that date.

In the event there is to be an election of candidates to a special district, school district, charter city, or other local government body at the same time as one of the four major election dates specified above and the last possible day to file nomination papers for the local election would occur after the date of the drawing for the major election date, the procedure set forth in Section 10217.5 shall apply.

(c) Each randomized alphabet drawing shall be open to the public. At least 10 days prior to a drawing, the Secretary of State shall notify the news media and other interested parties of the date, time, and place of it. The president of each statewide association of local officials with responsibilities for conducting elections shall be invited by the Secretary of State to attend each drawing or send a representative. The state chairman of each qualified political party shall be invited to attend or send a representative in the case of drawings held to determine the order of candidates on the June primary election ballot, the November general election ballot, or a special election ballot as provided for in subdivision (d) of this section.

(d) In the case of any special election for State Assembly, State Senate, or Representative in Congress, on the first weekday after the close of filing of nomination papers for the office, the Secretary of State shall conduct a public drawing to produce a randomized alphabet in the same manner as provided for in subdivisions (a) and (c) of this section. The resulting randomized alphabet shall be used

for determining the order on the ballot of the candidates in both the primary election for the special election and in the special election.

SEC. 2. Section 36503.7 is added to the Government Code, to read:

36503.7. If the date of a general municipal election is changed pursuant to Section 36503.5, notwithstanding Section 22836 of the Elections Code, the period to file as a candidate for the general municipal election shall be the same as the nomination period to file as a candidate for the election in which the general municipal election is consolidated.

CHAPTER 759

An act to amend Sections 10858, 10876, and 10877 of the Revenue and Taxation Code, and to amend Sections 4751, 9562, 9800, 9801, and 9802 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 10858 of the Revenue and Taxation Code is amended to read:

10858. (a) When a transferee or purchaser of a vehicle applies for transfer of registration, as provided in Section 5902 of the Vehicle Code, and it is determined by the department that vehicle license fee penalties accrued prior to the purchase of the vehicle and that the transferee or purchaser was not cognizant of the nonpayment of the vehicle license fee for the current or prior registration years, the department may waive the vehicle license fee penalties upon payment of the vehicle license fees due.

(b) Other provisions of this code notwithstanding, the Director of Motor Vehicles may, at his discretion, investigate into the circumstances of any application for registration to ascertain if penalties had accrued through no fault or intent of the owner. Provided such circumstances prevail, the director may waive any penalties upon payment of the license fee then due.

(c) When a transferee or purchaser of a vehicle applies for transfer of registration of a vehicle, and it is determined by the department that license fees for the vehicle for any year are unpaid and due, that the fees became due prior to the transfer or purchase of the vehicle by the transferee or purchaser, and that the transferee or purchaser was not cognizant of the fact that the fees were unpaid and due, the department may waive the fees and any penalty thereon when both of the following conditions exist:

(1) The license plate assigned to the vehicle displays a validating device issued by the department, and the validating device contains

the year number of the registration year for which the transferee or purchaser is requesting a waiver of fees and penalties.

(2) The transferee or purchaser has submitted to the department the registration card that indicates the vehicle is registered for the registration year indicated on the validating device displayed on the license plate assigned to the vehicle.

(d) Upon the transfer of a vehicle for which license fees and any penalties thereon are unpaid and due, such fees and penalties are, notwithstanding the provisions of Article 2 (commencing with Section 10876), the personal debt of the transferor of the vehicle who did not pay the fees and penalties when they became due or accrued. The fees and penalties may be collected by the department in an appropriate civil action if the department has waived the fees and penalties pursuant to subdivision (c).

SEC. 2. Section 10876 of the Revenue and Taxation Code is amended to read:

10876. Every license fee and any penalty added thereto, from the date on which the fee becomes due, shall constitute a lien upon the vehicle for which due and upon any other vehicle owned by the owner of that vehicle.

SEC. 3. Section 10877 of the Revenue and Taxation Code is amended to read:

10877. The department shall collect the fee and any penalty by seizure and sale of the vehicle as provided in Article 6 (commencing with Section 9800) of Chapter 6 of Division 3 of the Vehicle Code, or by appropriate civil action.

SEC. 4. Section 4751 of the Vehicle Code is amended to read:

4751. The department may refuse registration or the renewal or transfer of registration of a vehicle in any of the following events:

(a) If the department is not satisfied that the applicant is entitled thereto under this code.

(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 ownership, or license plates.

(d) If the vehicle is mechanically unfit or unsafe to be operated or moved on the highways.

(e) If the department determines that a manufacturer or dealer has failed during the current or previous year to comply with the provisions of this code relating to the giving of notice to the department of the transfer of a vehicle during the current or previous year.

(f) If the department determines that a lien exists, pursuant to Section 9800, against one or more other vehicles in which the applicant has an ownership interest.

SEC. 5. Section 9562 of the Vehicle Code is amended to read:

9562. (a) When a transferee or purchaser of a vehicle applies for

transfer of registration, as provided in Section 5902, and it is determined by the department that registration penalties accrued prior to the purchase of the vehicle, and that the transferee or purchaser was not cognizant of the nonpayment of the fees for registration for the current or prior registration years, the department may waive the registration penalties upon payment of the fees for registration due.

(b) Other provisions of this code notwithstanding, the director may at his discretion investigate into the circumstances of any application for registration to ascertain if penalties had accrued through no fault or intent of the owner. Provided such circumstances prevail, the director may waive any penalties upon payment of the fees for registration then due.

(c) When a transferee or purchaser of a vehicle applies for transfer of registration of a vehicle, and it is determined by the department that fees for registration of the vehicle for any year are unpaid and due, that the fees became due prior to the transfer or purchase of the vehicle by the transferee or purchaser and that the transferee or purchaser was not cognizant of the fact that the fees were unpaid and due, the department may waive the fees and any penalty thereon when both of the following conditions exist:

(1) The license plate assigned to the vehicle displays a validating device issued by the department and the validating device contains the year number of the registration year for which the transferee or purchaser is requesting a waiver of fees and penalties.

(2) The transferee or purchaser has submitted to the department the registration card that indicates the vehicle is registered for the registration year indicated on the validating device displayed on the license plate assigned to the vehicle.

(d) Upon the transfer of a vehicle for which fees for registration and any penalties thereon are unpaid and due, the fees and penalties are, notwithstanding the provisions of Article 6 (commencing with Section 9800) of this chapter, the personal debt of the transferor of the vehicle who did not pay the fees and penalties when they became due or accrued. The fees and penalties may be collected by the department in an appropriate civil action if the department has waived the fees and penalties pursuant to subdivision (c).

SEC. 6. Section 9800 of the Vehicle Code is amended to read:

9800. (a) Payments for any of the following, and any interest, penalties, or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense, and on any other vehicle owned by the owner of that vehicle:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Bail for offenses relating to the standing or parking of a vehicle.

(b) Notwithstanding the provisions of subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated under a trip permit beyond its date of expiration, an amount equal to the minimum registration fees or transfer fees, and any penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit which was pulling the dolly, semitrailer, or trailer.

(c) Every lien arising under this section shall expire three years from the date the fee, tax, or bail first became due.

(d) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities are agents of the department for the purposes of collecting fees and taxes which are a lien on commercial vehicles.

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may possess and sell trip permits approved by the department.

SEC. 6.5. Section 9800 of the Vehicle Code is amended to read:

9800. (a) Payments for any of the following, and any interest, penalties, or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense, and on any other vehicle owned by the owner of that vehicle:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Bail for offenses relating to the standing or parking of a vehicle.

(b) Notwithstanding the provisions of subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated without current year registration or valid California permits or registration, an amount equal to the minimum registration fees or transfer fees, and any penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit which was pulling the dolly, semitrailer, or trailer. However, this subdivision shall not be applicable if the citation is issued at a scale operated by the Department of the California Highway Patrol and registration for the vehicle can be issued there immediately upon payment of the fees due.

(c) Every lien arising under this section shall expire three years from the date the fee, tax, or bail first became due.

(d) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities are agents of the department for the purposes of collecting fees and taxes which are a lien on commercial vehicles.

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may

possess and sell trip permits approved by the department.

SEC. 7. Section 9801 of the Vehicle Code is amended to read:

9801. (a) When the registration of a vehicle is delinquent, the department may collect the amount of the lien on the vehicle plus costs, not to exceed two hundred fifty dollars ($250), by appropriate civil action or by the seizure and sale of the vehicle or any other vehicle owned by the owner of the unregistered vehicle.

(b) At least 10 days before the seizure, notice of the lien and of the intent to seize and sell the vehicle shall be given by the department to the registered and legal owners, and to any other person known to be claiming an interest in the vehicle, by registered mail addressed to those persons at the last known addresses appearing on the records of the department.

(c) Any person receiving the notice of the lien and the intent to seize and sell the vehicle may request a hearing to contest the existence or amount of the lien. If no hearing is requested, the vehicle shall be seized and sold.

(d) If a hearing is requested, 10 days' notice shall be given of the time and place of the hearing, which shall be held within the county of residence of the person requesting the hearing or of the registered owner. The hearing shall be conducted by a referee who shall submit findings and recommendations to the Registrar of Vehicles or authorized representative, who shall decide the matter. The decision shall be effective on notice thereof to the interested parties. However, the Registrar of Vehicles or his or her authorized representative may rescind the decision and reconsider the matter for good cause shown at any time within three years after the date the disputed fee or tax first became due.

(e) At any time before seizure or sale, any registered owner, legal owner, or person claiming an interest in the vehicle may pay the department the amount of the lien, plus costs. In that event, the seizure or sale shall not be held and the vehicle, if seized, shall be returned by the department to the person entitled to its possession. This payment shall not constitute a waiver of the right to a hearing.

(f) When the department or an authorized agent has reasonable cause to believe that the lien may be jeopardized within the 10-day notice-of-intent period, the vehicle may be seized without prior notice to the registered or legal owner, upon obtaining authorization for the seizure from the Registrar of Vehicles or authorized representative. In all those cases, a notice of the lien and the intent to sell the vehicle shall be given by the department to the legal and registered owner, and to any other person known to be claiming an interest in the vehicle, within 48 hours after seizure excluding Saturdays, Sundays, and holidays specified in Section 6700 of the Government Code. Any hearing to contest the lien and the seizure shall be requested within 10 days following transmittal of that notice.

(g) When a lien exists against one or more vehicles owned by the same person or persons, the department may seize and sell a sufficient number of the vehicles to pay the lien, plus costs, on one

or more of the vehicles in accordance with subdivision (a).

(h) The Department of the California Highway Patrol shall assist with the seizure and impounding of the vehicle. Any municipality or county law enforcement agency may assist with the seizure and impounding of the vehicle.

(i) Any property found by the department in any vehicle seized under the provisions of this article shall be handled by the department in the same manner as is provided in Sections 2414 and 2415.

SEC. 8. Section 9802 of the Vehicle Code is amended to read:

9802. (a) The Registrar of Vehicles or authorized representative shall conduct the sale in the same manner as provided by law for the seizure and sale of personal property by the assessor for the collection of taxes due on personal property.

(b) The department may bid for the vehicle an amount equal to the lien held by the department for registration, transfer, and license fees, use taxes, bail, and any interest, penalties, and costs added thereto. In all cases where the vehicle becomes the property of the department, it shall be reduced to junk and sold.

(c) The proceeds of any sale shall be allocated by the department for the following purposes and in the following order:

(1) Costs incurred by the department.

(2) Registration and transfer fees and any penalty added thereto.

(3) License fees and any penalty added thereto.

(4) Use taxes and any interest or penalty added thereto.

(5) Perfected mechanics' liens.

(6) Perfected security interests.

(7) Bail for offenses relating to the standing or parking of a vehicle and any administrative service fee added thereto.

(8) Any remainder to the person whose claim of interest in the vehicle is approved by the department.

(d) Notwithstanding Section 42270, the proceeds of a sale allocated pursuant to paragraphs (4) to (8), inclusive, of subdivision (c) shall not be transmitted to the Treasurer for deposit in the Motor Vehicle Account in the State Transportation Fund.

(e) The department shall transmit to the State Board of Equalization all use taxes, interest, and penalties collected under this article within 60 days after receipt thereof in the form which may be prescribed and approved jointly by the department and the board.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill 552 are both chaptered and become effective January 1, 1984, both bills amend Section 9800 of the Vehicle Code, and this bill is chaptered after Senate Bill 552, that the amendments to Section 9800 proposed by both bills be given effect and incorporated in Section 9800 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Senate Bill 552 are both chaptered and become effective January 1, 1984, both amend Section 9800, and this bill is chaptered after Senate Bill 552, in which case Section 6 of this act shall not become operative.

CHAPTER 760

An act to amend Sections 6731, 8726, and 8742 of, and to add Sections 6731.1, 6731.2, 8726.1, and 8761.1 to, the Business and Professions Code, relating to engineering and surveying.

[Approved by Governor September 13, 1983 Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 6731 of the Business and Professions Code is amended to read:

6731. Civil engineering embraces the following studies or activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbors, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewerage, refuse disposal, foundations, framed and homogeneous structures, buildings, or bridges:

(a) The economics of, the use and design of, materials of construction and the determination of their physical qualities.

(b) The supervision of the construction of engineering structures.

(c) The investigation of the laws, phenomena and forces of nature.

(d) Appraisals or valuations.

(e) The preparation or submission of designs, plans and specifications and engineering reports.

Civil engineering also includes city and regional planning insofar as any of the above features are concerned therein.

Civil engineers registered prior to January 1, 1982, shall be authorized to practice all land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3.

SEC. 2. Section 6731.1 is added to the Business and Professions Code, to read:

6731.1. Civil engineering also includes the practice or offer to practice, either in a public or private capacity, all of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth's surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry or photogrammetry.

SEC. 3. Section 6731.2 is added to the Business and Professions Code, to read:

6731.2. Any registered civil engineer may offer to practice, procure, and offer to procure, land surveying work incidental to his or her civil engineering practice, even though he or she is not authorized to perform that work, provided all the land surveying

work is performed by, or under the direction of, a licensed land surveyor or registered civil engineer authorized to practice land surveying. Further, any registered civil engineer may manage or conduct as manager, proprietor, or agent, a civil engineering practice which offers to practice, procure, and offers to procure, such incidental land surveying work.

SEC. 4. Section 8726 of the Business and Professions Code is amended to read:

8726. A person practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth's surface, or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry or photogrammetry.

(c) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

(d) Makes any survey for the subdivision or resubdivision of any tract of land.

(e) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary or corner, or sets, resets, or replaces any such monument or reference point.

(f) Geodetic or cadastral surveying.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (c), (d), (e), and (f).

(h) Indicates, in any capacity or in any manner, by the use of the title "land surveyor" or by any other title or by any other representation that he practices or offers to practice land surveying in any of its branches.

(i) Procures or offers to procure land surveying work for himself or others.

(j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed or practiced.

SEC. 5. Section 8726.1 is added to the Business and Professions Code, to read:

8726.1. Any licensed land surveyor may offer to practice, procure, and offer to procure civil engineering work incidental to his or her land surveying practice, even though he or she is not authorized to perform such work, provided all such civil engineering work is performed by or under the direction of a registered civil engineer. Further, any licensed land surveyor may manage or conduct as

manager, proprietor, or agent, a land surveying practice which offers to practice, procure, and offers to procure, such incidental civil engineering work.

SEC. 6. Section 8742 of the Business and Professions Code is amended to read:

8742. (a) The educational qualifications and experience in land surveying, which an applicant for the second division examination shall possess, shall be not less than the following prescribed minima:

(1) Graduation from a four-year curriculum with an emphasis in land surveying approved by the board or accredited by a national or regional accrediting agency recognized by the United States Office of Education at a postsecondary educational institution and two years of actual experience in land surveying, including one year of responsible field training and one year of responsible office training; or

(2) Actual experience in land surveying for at least six years, including one year of responsible field training and one year of responsible office training; or

(3) Registration as a civil engineer with two years of actual experience in land surveying.

(b) With respect to applicants for license as a land surveyor, the board:

(1) Shall count one year of postsecondary education in land surveying as one year of experience in land surveying up to a maximum of four years, provided the applicant has graduated from the course in land surveying and the curriculum in land surveying is approved by the board or is accredited by a regional or national accrediting agency recognized for the purpose by the United States Office of Education. Each year of study in an approved or an accredited course in land surveying without graduation shall be counted the same as one-half year of experience.

Each applicant claiming equivalent credit for education may be required to produce a complete transcript of all college level courses completed.

(2) May at its discretion give credit as experience in land surveying, not in excess of two years, for successfully passing the first division of the examination prescribed in Section 8741.

SEC. 7. Section 8761.1 is added to the Business and Professions Code, to read:

8761.1. The authority of a licensed land surveyor or registered civil engineer to prepare, sign, issue, stamp, or seal any map, plat, report, description or other document shall be consistent with that person's authority to practice land surveying.

CHAPTER 761

An act to amend Sections 1252, 1252.2, 1256, 1260, 1279, 1327, and 3552 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 13, 1983 Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 1252 of the Unemployment Insurance Code is amended to read:

1252. (a) An individual is "unemployed" in any week in which he or she meets any of the following conditions:

(1) Any week during which he or she performs no services and with respect to which no wages are payable to him or her.

(2) Any week of less than full-time work, if the wages payable to him or her with respect to the week, when reduced by twenty-five dollars ($25) or 25 percent of the wages payable, whichever is greater, do not equal or exceed his or her weekly benefit amount.

(3) Any week for which, except for the requirements of subdivision (d) of Section 1253, he or she would be eligible for benefits under Section 1253.5.

(4) Any week during which he or she performs full-time work for five days as a juror, or as a witness under subpoena.

(b) Authorized regulations shall be prescribed making such distinctions as may be necessary in the procedures applicable to unemployed individuals as to total unemployment, part-total employment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work.

(c) For the purpose of this section only "wages" includes any and all compensation for personal services whether performed as an employee or as an independent contractor or as a juror or as a witness, but does not include any payment received by a member of the National Guard or reserve component of the armed forces for inactive duty training, annual training, or emergency state active duty.

SEC. 2. Section 1252.2 of the Unemployment Insurance Code is amended to read:

1252.2. With respect to individuals hired as commercial fishermen a "partially unemployed individual" means an individual who, during a particular week meets all of the following conditions:

(a) Was employed by his or her regular employer in the act of catching or attempting to catch fish.

(b) Was during the week continuously attached to his or her employer from the standpoint that there did not occur any severance of the employer-employee relationship.

(c) (1) Worked less than normal customary full-time hours or full

number of days per week for his or her regular employer because of lack of full-time work, or

(2) If normal customary full-time hours or full number of days per week are not determinable, he or she worked less than four (4) days during a payroll week for his or her regular employer because of lack of full-time work.

(d) Earned wages which, when reduced by twenty-five dollars ($25) or 25 percent of the wages, whichever is greater, do not equal or exceed his or her weekly benefit amount.

SEC. 3. Section 1256 of the Unemployment Insurance Code is amended to read:

1256. An individual is disqualified for unemployment compensation benefits if the director finds that he or she left his or her most recent work voluntarily without good cause or that he or she has been discharged for misconduct connected with his or her most recent work.

An individual is presumed to have been discharged for reasons other than misconduct in connection with his or her work and not to have voluntarily left his or her work without good cause unless his or her employer has given written notice to the contrary to the department as provided in Section 1327, setting forth facts sufficient to overcome the presumption. The presumption provided by this section is rebuttable.

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 left his or her work without good cause.

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her spouse to a place from which it is impractical to commute to the employment.

SEC. 4. Section 1260 of the Unemployment Insurance Code is amended to read:

1260. (a) An individual disqualified under Section 1256, under a determination transmitted to him by the department, is ineligible to receive unemployment compensation benefits for the week in which the act that causes his disqualification occurs and continuing until he has, subsequent to the act that causes disqualification and his registration for work, performed service in bona fide employment for which remuneration is received equal to or in excess of five (5) times his weekly benefit amount.

(b) An individual disqualified under subdivision (b) of Section 1257, under a determination transmitted to him by the department, is ineligible to receive unemployment compensation benefits for not less than 2 nor more than 10 consecutive weeks beginning with:

(1) The week in which the cause of his disqualification occurs, if he registers for work in that week.

(2) The week subsequent to the occurrence of the cause of his disqualification in which he first registers for work, if he does not

register for work in the week in which the cause of his disqualification occurs.

(c) An individual disqualified under subdivision (a) of Section 1257, under a determination transmitted to him by the department, is ineligible to receive unemployment compensation benefits for the week in which the determination is mailed to or personally served upon him, or any subsequent week, for which he is first otherwise in all respects eligible for unemployment compensation benefits and for not more than nine subsequent weeks for which he is otherwise in all respects eligible for unemployment compensation benefits. No disqualification under this subdivision shall be applied to any week if all or any portion of the week is beyond the three-year period next succeeding the date of the mailing or personal service of the determination. This subdivision shall not apply to an individual prosecuted under Section 2101.

(d) Notwithstanding the provisions of subdivision (c) of this section, an individual who is subject to a disqualification that is imposed under subdivision (b) of Section 1257 may, if he or she is otherwise in all respects eligible for unemployment compensation benefits, concurrently serve a disqualification imposed under subdivision (a) of Section 1257.

SEC. 5. Section 1279 of the Unemployment Insurance Code is amended to read:

1279. (a) Each individual eligible under this chapter who is unemployed in any week shall be paid with respect to that week an unemployment compensation benefit in an amount equal to his or her weekly benefit amount less the smaller of the following:

(1) The amount of wages in excess of twenty-five dollars ($25) payable to him or her for services rendered during that week.

(2) The amount of wages in excess of 25 percent of the amount of wages payable to him or her for services rendered during that week.

(b) The benefit payment, if not a multiple of one dollar ($1), shall be computed to the next higher multiple of one dollar ($1).

(c) For the purpose of this section only "wages" includes any and all compensation for personal services whether performed as an employee or as an independent contractor or as a juror or as a witness, but does not include any payments, regardless of their designation, made by a city of this state to an elected official thereof as an incident to public office, nor any payment received by a member of the National Guard or reserve component of the armed forces for inactive duty training, annual training, or emergency state active duty.

SEC. 6. Section 1327 of the Unemployment Insurance Code is amended to read:

1327. The department shall give a notice of the filing of a new or additional claim to the employing unit by which the claimant was last employed immediately preceding the filing of the claim. The employing unit so notified shall submit within 10 days after the mailing of the notice any facts then known which may affect the

claimant's eligibility for benefits, including, but not limited to, facts pertaining to eligibility under Section 1256. The 10-day period may be extended for good cause. If after the 10-day period the employing unit acquires knowledge of facts which may affect the eligibility of the claimant and facts could not reasonably have been known within the period, the employing unit shall, within 10 days of acquiring the knowledge, submit the facts to the department, and the 10-day period may also be extended for good cause.

SEC. 7. Section 3552 of the Unemployment Insurance Code is amended to read:

3552. An unemployed individual is eligible to receive extended duration benefits with respect to any week only if the director finds that:

(a) An extended duration award has been established for the individual.

(b) The week is:

(1) Within the extended duration period of the award; and

(2) Within an extended benefit period.

(c) He or she meets the eligibility requirements of Part 1 (commencing with Section 100) of this division, except those excluded under subdivision (b) of Section 3502.

(d) He or she is not subject to disqualification, and is not under disqualification for normal benefits, under any provision of Part 1 (commencing with Section 100) of this division.

(e) He or she had earnings from employment subject to the provisions of this division which exceed 40 times his or her most recent weekly benefit amount in the base period in which he or she exhausted all rights to regular compensation.

For the purpose of this section "wages" includes wages due to an individual but unpaid within the time limit provided by law.

(f) During any week within an extended benefit period under the federal act, the provisions of subdivision (d) of Section 4552 and Sections 4553, 4554, 4555, and 4556 shall apply to claims filed under this part.

SEC. 8. The Employment Development Department shall, by January 31, 1984, provide to the Legislature's Assembly Committee on Finance and Insurance and Senate Industrial Relations Committee a detailed interim progress report on the department's mailing, on a daily basis, of all of the notices of computation required by Section 1329, in a single envelope to each employer. The department shall provide a final report to these respective legislative committees on the cost effectiveness of this procedure by July 1, 1984. The department shall consult with these respective legislative committees prior to the preparation of each report.

CHAPTER 762

An act to amend, repeal, and add Section 4850 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 4850 of the Labor Code is amended to read:

4850. Whenever any city policeman, harbor policeman of any harbor district, city fireman, county fireman, fireman of any fire district, sheriff or any officer or employee of a sheriff's office, any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, or lifeguard employed year round on a regular, full-time basis by a county of the first class, who is a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service with the city, county, or district, to leave of absence while so disabled without loss of salary in lieu of temporary disability payments, if any, which would be payable under this chapter, for the period of the disability, but not exceeding one year, or until such earlier date as he or she is retired on permanent disability pension, and is actually receiving disability pension payments. This section shall apply only to city policemen, harbor district policemen, sheriffs or any officer or employee of a sheriff's office, and any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes such employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active law enforcement service, and excludes such employees of a county sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It shall also apply to city firemen, county firemen, and firemen of any fire district who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government

Code) and excludes such employees of the city fire department, county fire department, and of any fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active firefighting and prevention service. It shall also apply to deputy sheriffs subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). It shall also apply to lifeguards employed year round on a regular, full-time basis by counties of the first class who are subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). If the employer is insured, the payments which, except for the provisions of this section, the insurer would be obligated to make as disability indemnity to the injured, the insurer may pay to the insured.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 2. Section 4850 is added to the Labor Code, to read:

4850. Whenever any city policeman, city fireman, county fireman, fireman of any fire district, sheriff or any officer or employee of a sheriff's office, any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, or lifeguard employed year round on a regular, full-time basis by a county of the first class, who is a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service with the city or county, to leave of absence while so disabled without loss of salary in lieu of temporary disability payments, if any, which would be payable under this chapter, for the period of the disability, but not exceeding one year, or until such earlier date as he or she is retired on permanent disability pension. This section shall apply only to city policemen, sheriffs or any officer or employee of a sheriff's office, and any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes such employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active law enforcement service, and excludes such employees of a county sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer,

machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It shall also apply to city firemen, county firemen, and firemen of any fire district who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes such employees of the city fire department, county fire department, and of any fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active firefighting and prevention service. It shall also apply to deputy sheriffs subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). It shall also apply to lifeguards employed year round on a regular, full-time basis by counties of the first class who are subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). If the employer is insured, the payments which, except for the provisions of this section, the insurer would be obligated to make as disability indemnity to the injured, the insurer may pay to the insured.

This section shall become operative on January 1, 1990.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 763

An act to add Section 1810.12 to the Civil Code, relating to consumer credit.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. Section 1810.12 is added to the Civil Code, to read:

1810.12. Notwithstanding Section 1810.4, a seller or holder of a retail installment account may, in an agreement which is signed by the buyer and of which a copy is given or furnished to the buyer, 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 the installment or five dollars ($5), whichever is less, but a minimum charge of one dollar ($1) may be made. Only one delinquency charge may be collected 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 agreement 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 agreement.

CHAPTER 764

An act to amend Section 3068 of the Civil Code, relating to liens.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983]

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

SECTION 1. 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 seven hundred fifty dollars ($750) 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.

CHAPTER 765

An act to add Section 16750.2 to the Business and Professions Code, relating to restraint of trade.

[Approved by Governor September 13, 1983 Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 16750.2 is added to the Business and Professions Code, to read:

16750.2. Any person, other than the Attorney General or a district attorney, who commences, by writ or appeal, any proceeding in the Supreme Court of California or a state court of appeal in which a violation of this chapter is alleged or any application of this chapter is in issue shall serve notice thereof upon the Attorney General within three days after the commencement of the proceeding, provided that such time may be extended by the Chief Justice or presiding justice for good cause shown. No relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

CHAPTER 766

An act to amend Section 926.15 of the Government Code, relating to state contracts.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 926.15 of the Government Code is amended to read:

926.15. (a) Any state agency which, without reasonable cause, fails to make any payment within 30 days of the required payment date to a small business or a nonprofit public benefit corporation awarded a contract with the agency to supply property or services, for an undisputed claim which was properly executed by the claimant and submitted to the agency, shall pay a penalty of .25 percent of the amount due, per day, from the 31st day after the required payment date. A nonprofit public benefit corporation shall only be eligible to receive a penalty payment if it has been awarded a contract in an amount less than five hundred thousand dollars ($500,000).

(b) In applying this section to claims submitted to the state, or to its fiscal intermediary, by providers of services or equipment under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, payment for claims shall be due 30 days after a claim is received by the state or its fiscal intermediary, unless reasonable cause for nonpayment exists. With regard to Medi-Cal claims "reasonable cause" shall include review of claims to determine medical necessity, review of claims for providers subject to special prepayment fraud and abuse controls, and claims which require review by the fiscal intermediary or department due to special circumstances. Claims requiring special review as specified above shall not be eligible for a late payment penalty.

(c) Unless otherwise specified, for the purposes of this section, "reasonable cause" shall include review of a claim which is improperly executed by the claimant or for which additional evidence of the validity of the claim is required. If it is determined by the state agency that a claim was improperly executed or that additional evidence of the validity of the claim is required, the small business or nonprofit public benefit corporation shall be notified within 15 working days of receipt by the state agency that the claim needs correction or that additional evidence of validity is required. The required payment date for claims requiring correction or additional information establishing validity shall be 30 days from the date the corrected claim is received by the state agency.

(d) For the purposes of this section, "required payment date" means: (1) the date on which payment is due under the terms of the contract; or (2) if a specific date is not established by contract, the date upon which an invoice is received, if the invoice specifies payment is due upon receipt; or (3) if a specific date is not established by contract or invoice, 30 days after receipt of a proper invoice for the amount of the payment due.

(e) For the purposes of this section, "small business" means any business so defined by regulations of the Department of General

Services which implements this section.

(f) For the purposes of this section, "nonprofit public benefit corporation" means a corporation as defined by subdivision (b) of Section 5046 of the Corporations Code which has registered with the Department of General Services as a small business.

(g) Any penalty required to be paid by a state agency pursuant to this section shall be paid by the Controller out of the state agency's budget.

(h) When a state agency is required by this section to pay a penalty, it shall be presumed that the fault is that of the head of the state agency and, in such cases, the head of the state agency shall submit to the Legislature a report on the actions taken to correct the problem.

(i) Any state agency which requests that the Legislature make a deficiency appropriation for the agency shall identify what part of the requested amount is necessitated because of any penalties imposed by this section.

(j) Accrual of the penalty provided by subdivision (a) shall cease on the date a claims schedule for the claim is submitted to the Controller. For purposes of this section, the term "small business" shall, in referring to providers under the Medi-Cal program, mean a business:

(1) Where the principal office is located in California.

(2) Where the officers, if any, are domiciled in California.

(3) Which is independently owned and operated.

(4) Which is not dominant in its field of operation.

(5) Which, together with any affiliates, has gross receipts from business operations which do not exceed three million dollars ($3,000,000) per year, except that the State Director of Health Services may increase this amount if the director deems that this action would be in futherance of the intent of this section.

(k) No nonprofit public benefit corporation awarded a contract pursuant to this section shall be eligible for a late payment penalty if there has been an advance payment made pursuant to Section 104.5 of the Health and Safety Code or if the state agency has failed to make timely payment because no Budget Act has been enacted.

CHAPTER 767

An act to amend Sections 404, 455, 616, and 631 of, and to add Sections 369 and 370 to, the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to the Monterey Peninsula Water Management District.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 369 is added to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), to read:

Sec. 369. The board, by resolution, may restrict the use of or close to motorized vehicles, the Carmel River, its bed and banks, or any portion thereof, whenever the board considers the closing or restriction of use necessary for either of the following:

(a) The protection of the public.

(b) The protection of the river or its bed and banks from damage.

Any person who willfully fails to observe any sign, marker, warning, notice, or direction, placed or given pursuant to this section, is guilty of a misdemeanor.

The board may not restrict the use of, or access to, that portion of the riverbank where that use or access is necessary to the ordinary operation, maintenance, or repair of existing golf courses.

The board may not restrict use of or access to lands within the State Park System.

SEC. 2. Section 370 is added to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), to read:

Sec. 370. (a) The board may issue written permits authorizing the permittee to do any of the following acts in or along the bed or banks of the Carmel River or its tributaries:

(1) Excavate or repair any river bed or river bank, including, but not limited to, the installation of gabions or riprap.

(2) Plant, irrigate, remove, cut, or destroy any tree, shrub, or plant. This subdivision shall not be construed as applying to the ordinary operation, maintenance, or repair of existing golf courses.

(b) The district engineer, or person authorized by the district engineer, may supervise any work done under a permit issued pursuant to this section. This section shall not be construed to apply to the diversion or extraction of water.

(c) Activities conducted under the following state acts and programs shall be exempt from the use restrictions and permit jurisdiction otherwise authorized under this section:

(1) Timber operations conducted pursuant to license under the Z'berg-Nejedly Forest Practice Act of 1973, as required by Article 7 (commencing with Section 4581) of Chapter 8 of Division 4 of the Public Resources Code.

(2) Control burning operations for range improvement and fire hazard reduction conducted pursuant to permit in accordance with Section 4470 of the Public Resources Code.

(3) Forest improvement activities, including preparation and planting of trees, under provisions of Chapter 1 (commencing with Section 4790) of Part 2.5 of Division 4 of the Public Resources Code.

(4) Control of the State Park System under the provisions of Chapter 1 (commencing with Section 5001) of Division 5 of the

Public Resources Code.

The exemptions specified in this subdivision shall not be construed in any manner to take away or limit any authority vested in the County of Monterey to impose restrictions in or grant permits for any of these activities.

SEC. 3. Section 404 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 404. The district may make and perform any agreement with the United States, the state, any public entity, public or private corporation, or any person for the joint acquisition, disposition, operation, or management of any property, works, water, or water supply of a kind which might be acquired, disposed of, or operated by the district.

SEC. 4. Section 455 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 455. If, prior to the conclusion of the hearing, a written protest is filed with the board against the proposed work or project which is signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, within such zone or within any of the participating zones for which such work or project was initiated, or by the holders of title to a majority of the assessed valuation of the real property within the zone or any of the participating zones, the proceedings relating to such work or project shall be terminated and a new hearing shall be conducted before the board may proceed with the work or project. Such new hearing may not be held until at least six months following such termination.

SEC. 5. Section 616 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 616. The bonds shall bear interest at a rate or rates not to exceed 12 percent per year, or any higher rate or rates permitted pursuant to Section 53531 or 53531.5 of the Government Code, payable semiannually, except that interest for the first year may be payable at or before the end of that year.

SEC. 6. Section 631 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 631. The board may sell bonds of any authorized issue, or any part thereof, at not less than 90 percent of the par value thereof and interest thereon accrued from the date of the bonds to the date of delivery to the purchaser thereof. Before selling any bonds, the board shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may reject

all bids received, if any, and either advertise or sell the bonds at private sale.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 768

An act to amend Section 11580.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 13, 1983 Filed with Secretary of State September 13, 1983.]

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) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, 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 or renewal of such policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, 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 or if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall be construed to require that uninsured motorist coverage shall be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automoble liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(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 to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, 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, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) 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 a motor vehicle 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 a motor vehicle other than the described motor vehicle 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 bear 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 arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. 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 legally liable for 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. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*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. 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, the insured's heirs or legal representative for all sums within such limits which he, she, 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) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, 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 the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the 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 or if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall be construed to require that uninsured motorist coverage shall be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on

insured premises or the ways immediately adjoining.

(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 to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, 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."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the 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 or she 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 or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her 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 the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her 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 or her legal representative has or the insured's heirs have a cause of action arising out of the 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 a motor vehicle owned or operated 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 the 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 the 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 the 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 a motor vehicle other than the described motor vehicle 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 or her 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 the insured 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 bear 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 or her, the damages which the insured 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 the 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 or her insurer, his or her legal representative, or his or her 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, the 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) the 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 arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. 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 these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in 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 the 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 legally liable for 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 or she 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 or her, his or her 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 and notice of such suit has been given the insurer, 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 the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*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.

(n) An insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted within 10 days of request and the medical examination shall be arranged no sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 538 are both chaptered and become effective January 1, 1984, both bills amend Section 11580.2 of the Insurance Code, and this bill is chaptered after Senate Bill 538, that the amendments to Section 11580.2 proposed by both bills be given effect and incorporated in Section 11580.2 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 538 are both chaptered and become effective January 1, 1984, both amend Section 11580.2, and this bill is chaptered after Senate Bill 538, in which case Section 1 of this act shall not become operative.

CHAPTER 769

An act to amend Sections 41164, 41194, 41201, 41201.1, 41202, and 41203 of, to amend the heading of Article 5 (commencing with Section 41201) of Chapter 3 of Division 16 of, to add Sections 41204, 41205, and 41206 to, and to repeal Article 6 (commencing with Section 41251) of Chapter 3 of Division 16 of, the Food and Agricultural Code, relating to wine grapes.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 41164 of the Food and Agricultural Code is amended to read:

41164. The board of supervisors of the county shall establish a scale and method of collection of fees, to be paid for each certificate which is provided for in this chapter. The scale of fees which are established for the certificates shall be based upon the approximate cost of the inspection, sampling, and testing which is necessary to the certification of the percentage of the soluble solids in each lot or load of grapes. The certification fee shall be paid by the person that accepts delivery of the grapes. One-half of the fees may be deducted from funds owed to the person who delivered the grapes.

SEC. 1.5. Section 41194 of the Food and Agricultural Code is amended to read:

41194. For the purpose of carrying out this article, the director may establish necessary regulations, including reasonable fees which are to be charged for the services and for the acceptance of advance fees to effectuate the determination. Any fees which are so established shall be based upon the approximate cost of the service which is rendered. Fees shall be paid by the person that accepts delivery of the grapes. One-half of the fees may be deducted from money owed to the person who shipped the grapes.

SEC. 2. The heading of Article 5 (commencing with Section 41201) of Chapter 3 of Division 16 of the Food and Agricultural Code is amended to read:

Article 5. Wine Grape Inspection Advisory Committee

SEC. 3. Section 41201 of the Food and Agricultural Code is amended to read:

41201. There is in the department a Wine Grape Inspection Advisory Committee consisting of eight wine producers and eight wine grape growers appointed by the director. The director shall appoint one additional member on the committee, who shall be a public member. The members of the committee shall receive no salary.

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 and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member 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.

In making appointments to the committee, the director shall appoint only one person to represent any one winery or growers' firm, and shall make every effort to assure that there is geographical representation from the major wine grape production areas in the state that utilize inspection.

SEC. 4. Section 41201.1 of the Food and Agricultural Code is amended to read:

41201.1. It is hereby declared, as a matter of legislative determination, that wine producers and wine grape growers appointed to the Wine Grape Inspection Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that the representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to the committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 5. Section 41202 of the Food and Agricultural Code is amended to read:

41202. The term of office of each member of the committee is three years. Appointment of the first members shall be made so that the term of office of four members, two of whom are wine producers

and two of whom are wine grape growers, expires at the end of one year; six members, three of whom are wine producers and three of whom are wine grape growers, at the end of two years; and six members, three of whom are wine producers and three of whom are wine grape growers, at the end of three years. The term of the public member is three years.

SEC. 6. Section 41203 of the Food and Agricultural Code is amended to read:

41203. (a) The committee shall be advisory to the director on all matters pertaining to this chapter and certification of the quality of grapes used for processing pursuant to Section 40531 and shall make recommendations concerning the inspection and certification services rendered, including the annual budget and fees necessary to provide adequate inspection and certification services.

(b) The committee's primary goal shall be to recommend to the director objective criteria and inspection procedures for all quality conditions that have an effect on acceptance or on the amount of the purchase price of fresh grapes for wine and byproduct purposes.

SEC. 6.5. Section 41204 is added to the Food and Agricultural Code, to read:

41204. The committee shall meet at the call of its chairman or at the request to the director of any three members of the committee. The committee shall meet at least once each year.

SEC. 7. Section 41205 is added to the Food and Agricultural Code, to read:

41205. The director shall appoint an alternate member for each committee member. In making the appointments, the director shall appoint a wine producer as alternate for each wine producer member and a wine grape grower as alternate for each wine grape grower member, and shall take into consideration persons suggested by the representative of the member for whom the alternate is designated to serve.

SEC. 8. Section 41206 is added to the Food and Agricultural Code, to read:

41206. Alternate members shall serve at committee meetings only in the absence of the member for whom they are designated as alternate.

SEC. 9. Article 6 (commencing with Section 41251) of Chapter 3 of Division 16 of the Food and Agricultural Code is repealed.

CHAPTER 770

An act to amend the heading of Article 5 (commencing with Section 14040) of Chapter 1 of Part 5 of Division 3 of Title 1 of, to amend Sections 14021, 14022, 14125, and 14126 of, and to add Sections 14028, 14028.1, 14028.2, 14028.3, 14028.4, 14035.5, and 14048 to, to add Article 9.5 (commencing with Section 14084) to Chapter 1 of Part 5

of Division 3 of Title 1 of, and to repeal and add the heading of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of, and to repeal and add Article 3.6 (commencing with Section 14029) to Chapter 1 of Part 5 of Division 3 of Title 1 of, and to repeal and add Sections 14002, 14010, 14020, 14024, and 14040 to, the Corporations Code, relating to small business development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. The heading of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code is repealed.

SEC. 2. A heading is added to Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code, to read:

PART 5. OFFICE OF SMALL BUSINESS DEVELOPMENT

SEC. 3. Section 14002 of the Corporations Code is repealed.

SEC. 4. Section 14002 is added to the Corporations Code, to read:

14002. It is the intention of the Legislature in enacting this part to promote the economic development of small businesses by making available capital, management assistance and other resources, including loan services, personnel and business education to small business entrepreneurs for the purpose of promoting the health, safety, and social welfare of the citizens of California, to eliminate unemployment of the economically disadvantaged of the state, and to stimulate economic development, employment, minority group and disabled persons entrepreneurship. It is the further intent of the Legislature to provide a flexible means to mobilize and commit all available and potential resources in the various regions of the state to fulfill these objectives. It is the further intent of the Legislature that corporations operating pursuant to this law, shall to the maximum extent feasible, coordinate with other job and business development efforts within their region directed toward implementing the purpose of this part.

SEC. 5. Section 14010 of the Corporations Code is repealed.

SEC. 6. Section 14010 is added to the Corporations Code, to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business development corporation created pursuant to the provisions of this part.

(b) "Financial institution" means banking organizations including national banking associations and state-chartered commercial banks and trust companies; savings and loan associations;

state insurance companies; mutual insurance companies; and other banking, loaning, retirement, and insurance organizations.

(c) "Economically disadvantaged area" means the area or areas within the region of a corporation consisting of those contiguous census tracts within urbanized areas as defined by the most recent federal decennial census, in which 20 percent or more of the families were reported by the most recent federal decennial census to have an annual income of less than the poverty level established by the Bureau of the Census, or comparable areas which because of technical factors, cannot be isolated by census tracts. The definition set forth in this subdivision shall be reviewed periodically and the board shall recommend necessary changes to the Legislature and the Governor.

(d) "Area of high youth unemployment and high youth delinquency" shall be defined by the board.

(e) "Region" means an area containing a population of not less than 500,000 and including within its boundaries one or more economically disadvantaged areas, and in which members of a corporation conduct normal business operations.

(f) Unless otherwise defined by the board, "small business" means a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations, and including those businesses organized for agricultural purposes.

(g) "Employment incentive loan" means a loan for the purpose of attracting new business to, or expanding an existing business, which over the period of the loan will result in the new or continued employment of at least 15 persons who are either persons residing in economically disadvantaged areas or youths residing in areas of high youth unemployment and high youth delinquency.

(h) "Member" means any organization, individual, financial institution, nonprofit organization or other business authorized to operate within this state which undertakes to make resources available to a corporation in accordance with the provisions of this chapter.

(i) "Resources" means monetary contributions, donation of consultants, personnel, facilities, equipment, loan services, and other items or services as defined by the corporation.

(j) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on every loan application pursuant to Article 7.5 (commencing with Section 14066).

(k) "Membership agreement" means an agreement between a corporation and any individual, financial institution, nonprofit organization, or other business under which agreement such individual, financial institution, nonprofit organization, or other business agrees to make available or contribute resources to the corporation in accordance with the provisions of Article 8 (commencing with Section 14075).

(*l*) "Board of directors" means the board of directors of the corporation.

(m) "OSBD" means the Office of Small Business Development.

(n) "Board" means the Small Business Development Board.

(o) "Department" means the Department of Economic and Business Development.

(p) "Executive director" means the Executive Director of the Office of Small Business Development.

(q) "UDC" means an urban development corporation.

(r) "RDC" means a rural development corporation.

(s) "Director" means the Director of the Department of Economic and Business Development.

SEC. 7. Section 14020 of the Corporations Code is repealed.

SEC. 8. Section 14020 is added to the Corporations Code, to read:

14020. There is in the Business, Transportation, and Housing Agency, in the Department of Economic and Business Development, a Small Business Development Board.

SEC. 9. Section 14021 of the Corporations Code is amended to read:

14021. The board consists of the following membership:

Superintendent of Banks or his or her designee.

Director of the Department of Economic and Business Development or his or her designee.

Director of the Department of Food and Agriculture or his or her designee. Director of Employment Development Department or his or her designee.

Nine members appointed by the Governor, including:

Two persons residing in economically disadvantaged areas who are actively engaged in providing leadership and assistance for persons residing in these areas; one each from an urban and rural area.

Two persons to be recommended by the financial institutions participating in the program as of January 1 of each year.

Two persons actively engaged in a commercial, agricultural, or industrial business and who are members of a small, agricultural, minority or women's business association.

One person who is an officer of an urban labor organization.

One person experienced in financial matters or actively engaged in the banking, savings and loan or insurance business.

Two Members of the Legislature or their designees, one of whom shall be appointed by the Speaker of the Assembly, and one by the Senate Rules Committee, shall advise with the board insofar as it does not conflict with the duties of the legislators. For purposes of this part, such two Members of the Legislature shall constitute a joint interim legislative committee on the subject of this part and shall have all the powers and duties imposed upon such committees by the Joint Rules of the Senate and Assembly.

Two persons actively involved in the business or agricultural community, one to be appointed by the Speaker of the Assembly, and one by the Senate Rules Committee, each of whom shall serve for a

term of one year, subject to removal at the pleasure of the appointing authority.

One person from each small business development corporation, who shall be selected by the board of directors or members of each corporation in accordance with its bylaws, each of whom shall serve as nonvoting members of the board.

SEC. 10. Section 14022 of the Corporations Code is amended to read:

14022. The board shall:

(a) Advise the executive director on matters regarding this part.

(b) Adopt regulations for the purposes of this part as proposed by the executive director, including regulations for the supervision and suspension of the corporations created herein.

(c) Select a chairman and a vice chairman of the board from among the members and adopt subsequent bylaws as are required to govern the conduct and operation of the board.

(d) Review the articles of incorporation and any subsequent amendments to the articles of incorporation of all corporations formed under this chapter in the following manner:

(1) Examine the articles to determine whether they contain the provisions required by this chapter and conform with the regulations adopted pursuant to this part.

(2) Determine whether the legislative intent expressed in Section 14002 shall be served by the proposed corporation.

(3) Determine if the economically disadvantaged area or areas the incorporators propose to serve meets the requirements of subdivision (c) of Section 14010.

(4) Determine if the region is sufficient and complete and meets the population requirements of subdivision (e) of Section 14010.

(5) Determine whether the responsibility, character, and general fitness of the incorporators and directors named in the articles are such as to command the confidence of the region and to warrant the belief that the business of the proposed corporation will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter and that they include representatives of the financial and business community, as well as local government and the economically disadvantaged.

(6) Recommend to the executive director the approval or disapproval of the articles and any subsequent amendments to the articles expeditiously, including changes in articles of incorporation or directors.

(e) Review each urban and rural development corporation's four-year written plan of operation, to insure that all areas of responsibilities as required herein are duly addressed and recommend to the executive director acceptance of such.

(f) Recommend to the executive director the appointment of such advisory groups as may be necessary to carry out the powers and duties of the department.

(g) Hold public hearings in order to carry out the objectives of the

department in regards to its responsibilities as legislative advocate and ombudsman for the state's small business community.

(h) Solicit nominees and recommend to the Governor candidates for the position of executive director.

(i) Issue an annual report critiquing the program, its needs and recommended changes.

SEC. 11. Section 14024 of the Corporations Code is repealed.

SEC. 12. Section 14024 is added to the Corporations Code, to read:

14024. The board shall not allocate any funds to a small business development corporation unless the board determines to its satisfaction:

(a) That there is sufficient interest in the region, including commitments to provide financial support, business consultation and education, and other assistance.

(b) That the plan of operation submitted by the corporation includes:

(1) Substantiation of the ability of the corporation to maintain and increase its loan guarantee fund.

(2) A reasonably complete description of the disadvantaged area or areas to be served.

(3) A description of methods to be used to mobilize community resources within the region to carry out the purposes of this chapter.

(4) An agreement that at least one-half of the corporation's lendable funds and guarantee capacity will be utilized to make or guarantee small business loans. There shall be no discrimination on the basis of race, creed, national origin, sex, age or physical handicap in considering individual applications for loans. To prevent discrimination, small business loans shall be made to persons whose characteristics coincide, to the fullest extent possible consistent with provisions of law, with the characteristics of the economically disadvantaged area or economically disadvantaged areas to be served.

(5) An agreement to require, as a condition to the granting of any loan or guarantee, that the borrower in an employment incentive loan will accept for permanent employment a significant number of disadvantaged persons referred for placement by the Department of Employment Development. There shall be no discrimination on the basis of race, creed, national origin, sex, age or physical handicap by an employment incentive borrower in hiring employees from disadvantaged areas. To prevent discrimination, the characteristics of these employees shall, to the fullest extent possible consistent with provisions of law, coincide with the characteristics of the unemployed in the economically disadvantaged area or economically disadvantaged areas served by the corporation.

(6) An agreement to require, as a condition to the granting of any loan or guarantee, that the borrower in a small business loan will agree to a continuing consulting relationship with the corporation during the existence of the loan or guarantee.

(7) An agreement to coordinate to the maximum extent feasible with existing job development and placement programs.

(c) That upon a subsequent request for additional allocations, the corporation will certify that the information provided pursuant to subdivision (b) is still current or will supply revised information and provide information describing the current status of its fund and anticipated financial assistance transactions.

SEC. 13. Section 14028 is added to the Corporations Code, to read:

14028. To the extent permitted by the resources allocated to the office, the office may, in the manner the board determines fair and reasonable, provide to small businesses in this state qualifying under any of the programs under the jurisdiction of the office, the following:

(a) Financial assistance in the form of loan guarantees through the California small business development corporations, equity guarantees.

(b) Management and technical assistance.

(c) Public relations services.

(d) Representation of their interests before Congress, the Legislature, and state and federal agencies. State agencies shall cooperate and respond to inquiries of the office when it represents the interests of small businesses.

(e) Planning and research functions.

SEC. 14. Section 14028.1 is added to the Corporations Code, to read:

14028.1. The office may establish a special council on purchasing to encourage major corporations doing business in this state to purchase from, and subcontract to, small and minority businesses in this state.

SEC. 15. Section 14028.2 is added to the Corporations Code, to read:

14028.2. The office may establish and maintain a minority vendor file as a comprehensive listing and information source on small and minority businesses throughout the state for all businesses and industries.

SEC. 16. Section 14028.3 is added to the Corporations Code, to read:

14028.3. The office may establish a central reference program and general counseling service to assist small and minority businesses in their operations, including governmental requirements, such as taxation, accounting, and pollution control, and to provide information concerning the agency from which more specialized assistance may be obtained.

SEC. 17. Section 14028.4 is added to the Corporations Code, to read:

14028.4. In connection with any loan made, guaranteed or otherwise assisted by the state, the executive director shall require that management and technical assistance be provided to the

borrower by the central staff of a California small business development corporation, urban development corporation, or rural development corporation pursuant to Sections 14084 and 14170.

SEC. 18. Article 3.6 (commencing with Section 14029) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code is repealed.

SEC. 19. Article 3.6 (commencing with Section 14029) is added to Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code, to read:

Article 3.6. Small Business Expansion Program

14029. There is hereby created in the State Treasury the Small Business Expansion Fund.

14029.1. The Small Business Expansion Fund is created solely for the purpose of receiving state money to make guarantees, and restricted investments pursuant to the provisions of this article.

14029.2. All money deposited in the Small Business Expansion Fund is hereby continuously appropriated, without regard to fiscal years, for the purposes of this article.

Notwithstanding Section 13340 of the Government Code, the status of the Small Business Expansion Fund as a continuously appropriated fund shall continue for the 1983–84 fiscal year.

14029.3. The state shall not be liable or obligated in any way beyond the state money which is allocated in the Small Business Expansion Fund from moneys from the General Fund moneys appropriated for such purposes.

14029.4. The board may establish a program to facilitate the transfer of a small business between a seller and buyer thereof.

Any activities undertaken pursuant to such program shall be exempt from the provisions of the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code).

14029.5. The board may establish a program through which the regional corporations may enter into contracts with any investor to indemnify such investor's investments in any minority enterprise small business investment company or in any corporation formed pursuant to the provisions of Part 6 (commencing with Section 14200) against the risk of loss. Contracts entered into pursuant to this section may guarantee up to 50 percent of the paid-in capital and surplus of any minority enterprise small business investment company, or in any corporation formed pursuant to the provisions of Part 6 (commencing with Section 14200).

14029.6. The board may establish a program through which the regional corporations may enter into contracts with any financial institution to indemnify such institution's investments in such classes of securities as the board may by regulation determine, in consideration for the expansion of the institution's loan activity with small businesses.

"Financial institutions" includes all such institutions licensed or regulated by the state or federal government, or whose accounts are insured by a state or federal agency.

14029.7. The executive director at his discretion, with the approval of the Director of Finance, may request the Treasurer to invest those funds in the Small Business Expansion Fund and the Small Business Development Loan Guarantee Fund which are not immediately encumbered by administrative or program costs, in securities issued by the Treasury of the United States government. Returns from these investments shall be deposited in the Small Business Expansion Fund and shall be used to support the programs of this part.

14029.8. The office may establish a program through which the regional corporations may assist small farms and rural and agriculture-related businesses with respect to financing, managerial and technical assistance.

SEC. 20. Section 14035.5 is added to the Corporations Code, to read:

14035.5. Each small business development corporation shall have provisions establishing a grievance procedure for employees, clients, or potential clients, to appeal a decision or obtain redress of an action done by the staff or loan committee of the corporation. If a client or potential client is dissatisfied with the decision under that procedure, the matter may be submitted to and decided by OSBD, in accordance with rules and procedures established by it.

SEC. 21. The heading of Article 5 (commencing with Section 14040) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code is amended to read:

Article 5. The Small Business Development Loan Guarantee Account

SEC. 22. Section 14040 of the Corporations Code is repealed.

SEC. 23. Section 14040 is added to the Corporations Code, to read:

14040. There is hereby continued in the State Treasury in the Small Business Expansion Fund, the Small Business Development Loan Guarantee Account as part of the Small Business Expansion Fund.

SEC. 24. Section 14048 is added to the Corporations Code, to read:

14048. Every corporation formed under this chapter may establish an account within the Small Business Development Corporation Loan Guarantee Fund to receive funds appropriated to the Small Business Expansion Fund in the State Treasury. The office shall determine the allocation of moneys from this fund to the corporations.

SEC. 25. Article 9.5 (commencing with Section 14084) is added to Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations

Code, to read:

Article 9.5. California Small Business Development Corporation Central Staff

14084. Every California small business development corporation, urban development corporation, or rural development corporation shall provide for and maintain a central staff to perform:

(a) All administrative requirements of the corporation including all those functions required of a corporation by the Small Business Development Board and the executive director.

(b) Management and technical assistance to borrowers who apply for and receive direct or guaranteed loans through this program, rendering directly such assistance to at least 65 percent of the corporation's borrowers, and by contracting with a qualified private association to fulfill remaining assistance needs if necessary.

(c) The preparation of financial statements on all applicants for loans through this program.

14085. The costs incurred by a corporation in the creation and maintenance of a central staff shall be paid to the corporation from state funds allocated to the California Office of Small Business Development for these purposes.

SEC. 25.5. Section 14125 of the Corporations Code is amended to read:

14125. (a) Within 30 days after the effective date of this article each of the small business development corporations operating as of June 30, 1979, with urban business lending experience and the small business development corporation operating as of June 30, 1979, with agricultural lending experience shall designate itself as an urban development corporation or a rural development corporation. In the event that such a regional corporation declines to be an urban development corporation or rural development corporation, the board may authorize the establishment of a new regional corporation which will become an urban development corporation or rural development corporation within six months of such designation. To qualify for consideration as a regional corporation, an organization must have had a minimum of two years' experience in small business finance, management, and technical assistance. Regional corporations operating as of June 30, 1979, which decline to become urban development corporations or rural development corporations shall become ineligible to receive further state funds pursuant to this chapter six months after the decision.

(b) The regional corporations designated as urban development corporations or rural development corporations shall within a reasonable period of time take action to amend their articles of incorporation and bylaws to conform to the provisions of this article.

(c) No later than March 1, 1980, or 30 days after designation as an urban development corporation or rural development corporation whichever is sooner the urban development corporations and rural

development corporations shall submit to the board a plan for an urban or rural development program which is independent of state funding pursuant to this chapter within four years. The board shall notify the urban development corporation or rural development corporation of its acceptance or rejection for cause of the plan within 60 days of submission. Upon acceptance by the board, the plan shall be the basis for all the urban development corporations' or rural development corporations' funding pursuant to this chapter. Until the plan is accepted by the board the urban development corporation or rural development corporation designee shall continue to operate as a regional corporation as defined in Articles 1 through 13 of Chapter 1.

(d) The state, through the Office of Small Business Development, shall continue to have jurisdiction and to exercise supervision over urban development corporations and rural development corporations which have achieved independence from state administrative funding. The state shall have the right to review and approve the activities and expenditure of funds of those urban development corporations and rural development corporations to ensure conformity with the provisions and intent of the Small Business Corporation Law and the regulations thereof. The use of state funds paid out to the corporation loan guarantee fund and the return on those funds from investment pursuant to Section 14044 is conditional pursuant to Section 14025 and 14044.1. Each corporation shall enter into a written signed agreement with the state at the beginning of each fiscal year. The agreement shall govern the activities in which the corporations engage, the investment of state funds and its return, and the budgeted administrative expenses the corporations may incur. In the event the state and corporation do not reach an agreement, or the state finds the corporation has violated the terms of an active agreement, the state may take action under Section 14025 and 14044.1 or other action as appropriate.

SEC. 26. Section 14126 of the Corporations Code is amended to read:

14126. (a) The urban development corporations and rural development corporations shall be organized as small business development corporations and have all powers, rights and duties of such corporations in addition to those provided in this article. Wherever there is a conflict between provisions of this article and Articles 1 through 13, the provisions of this article shall prevail. Furthermore, loan guarantee funds allocated pursuant to this chapter shall remain in the loan guarantee funds of the respective regional corporations subject to any written agreement between the regional corporation and the office.

(b) The UDC's and RDC's shall provide statewide services within designated territories determined by the board, have broad territorial representation, and include on their boards of directors officers of commercial, industrial, or agricultural organizations. Representatives from appropriate local, state, or federal

governmental departments and agencies shall be given the opportunity to become voting members of the board of directors of the UDCs and RDCs. The executive director or his or her designee shall be an ex officio, nonvoting representative on the board of directors and loan committees of each UDC and RDC.

SEC. 27. 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 insure the continued viability of the programs and practices established pursuant to the Small Business Development Corporation Law, it is necessary that this act take effect immediately.

CHAPTER 771

An act to amend Section 21080 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 13, 1983.]

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

SECTION 1. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal

powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking

facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

SEC. 2. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the

enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division does not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games other than an Olympic shooting range. However, no shooting range shall be constructed for use in connection with an Olympic games unless, upon consideration of the matter, the board of supervisors of the county in whose unincorporated area the shooting range is proposed to be located, or the city council of the city in which the shooting range is proposed to be located, whichever is applicable, expressly finds that it does not threaten significant damage to endangered species or inhibit access to other recreational facilities.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies

which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project, or portion thereof, located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity

passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

(d) This section shall remain in effect only until August 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before August 1, 1984, deletes or extends that date.

SEC. 3. Section 21080 is added to the Public Resources Code, to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or

commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

(d) This section shall become operative on August 1, 1984.

SEC. 4. Sections 2 and 3 of this bill incorporate amendments to Section 21080 of the Public Resources Code proposed by both this bill

and AB 713. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, (2) each bill amends Section 21080 of the Public Resources Code, and (3) this bill is enacted after AB 713, in which case Section 21080 of the Public Resources Code, as amended by AB 713, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, Section 1 of this bill shall not become operative, and Section 3 of this bill shall become operative on August 1, 1984.

CHAPTER 772

An act to add and repeal Article 4.5 (commencing with Section 14580) of Chapter 8.7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to adult day health care.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Article 4.5 (commencing with Section 14580) is added to Chapter 8.7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 4.5. Pilot Project

14580. The State Department of Health Services shall administer a pilot project to provide adult day health care services, to Medi-Cal recipients, in private adult day health care facilities operating on a profitmaking basis, and regulated pursuant to Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code.

14581. (a) The department shall determine the appropriate number of facilities, which shall not be in excess of five facilities, to be used for pilot projects under this article.

(b) The state department shall submit a report to the Legislature on the progress of the pilot project on July 1 and January 1 of each year, commencing July 1, 1984, and ending January 1, 1986. The initial report shall include the following elements:

(1) A description of the progress made in implementing the program.

(2) The number of centers established.

(3) The characteristics and number of persons served by the program.

(4) The costs of provision of services and administration.

(c) The final report shall include an evaluation of the program, which shall measure the effectiveness and efficiency of the program.

The report shall include the following:

(1) Comparison of the costs of proprietary adult day health programs and nonprofit adult day health programs.

(2) The costs of adult day health programs as compared to the costs for long-term institutional care.

(3) Reporting of profits made, if any, by proprietary adult day health programs.

(4) The number of persons diverted from long-term institutional care through adult day health care programs.

(5) A description of characteristics of persons served by the program, the range of services provided, and outcome of services.

(6) A comparison of the psychological and sociological effects of services delivered to adult day health care patients in facilities providing only those services, to the psychological and sociological effects of adult day health care services and skilled nursing facility services provided to adult day health care and skilled nursing facility patients residing in the same facility.

(7) Recommendations for legislative and administrative changes.

(d) In preparing the reports required pursuant to subdivisions (b) and (c), the department shall make unannounced onsite visits to facilities providing services under this article.

(e) The department shall consult with representatives from both nonprofit and for-profit adult day health care facilities, as well as consumer representatives in selecting pilot project facilities and in designing and preparing the reports required under this section.

14582. The pilot program shall be funded to the extent possible for the 1982–83 and 1983–84 fiscal years, and program funding shall not adversely affect funding of nonprofit adult day health programs in place prior to enactment of this program.

Startup funds shall not be provided to any facility providing services pursuant to this article.

Medi-Cal rates of reimbursement for facilities participating in this pilot project shall not be greater than rates paid to nonprofit facilities providing the same service.

14583. This article shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 2. The Director of Health Services shall seek any waivers from the Secretary of the United States Department of Health and Human Services necessary to implement the provisions of Section 1 of this act. Section 1 of this act shall not become operative unless and until all necessary waivers are obtained.

CHAPTER 773

An act to amend Sections 20165, 20181, 20360, 20361, 20894, and 21370 of, and to add Sections 9354.7, 21208, and 75111 to, the Government Code, relating to public retirement systems.

[Approved by Governor September 13, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 9354.7 is added to the Government Code, to read:

9354.7. (a) Whenever a person entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) Whenever the amount of a benefit payable by this system cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the accumulated contributions of the member on whose account the benefit is payable shall be administered in accordance with subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the retirement fund and held for the claimant without further accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become part of the fund. Transfer to the fund shall be made as of the June 30th next following the expiration of the four-year period.

The board may at any time after transfer of proceeds to the fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

SEC. 2. Section 20165 of the Government Code is amended to read:

20165. If more or less than the correct amount of contribution required of members, the state, or any contracting agency, is paid, proper adjustment shall be made in connection with subsequent payments, or such adjustments may be made by direct cash payments between the member, state, or contracting agency concerned and the board or by adjustment of the employer's rate of

contribution. Adjustments to correct any other errors in payments to or by the board, including adjustments of contributions, with interest, which are found to be erroneous as the result of corrections of dates of birth, may be made in the same manner. Adjustments to correct overpayment of a retirement allowance may also be made by adjusting the allowance so that the retired person or the retired person and his beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled. Losses or gains resulting from error in amounts within the limits set by the State Board of Control for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoff by the State Board of Control, shall be debited or credited, as the case may be, to the reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

No adjustment shall be made because less than the correct amount of normal contributions was paid by a member if the board finds that the error was not known to the member and was not the result of erroneous information provided by him to the system or to his employer and such failure to adjust will not preclude action under Section 20180 correcting the date upon which the person became a member.

The actuarial equivalent under this section shall be computed on the basis of the mortality tables and actuarial interest rate in effect under the system on December 1, 1970, for retirements effective through December 31, 1979. Commencing with retirements effective January 1, 1980, and at corresponding 10-year intervals thereafter, or more frequently at the board's discretion, the board shall change the basis for calculating actuarial equivalents under this article to agree with the interest rate and mortality tables in effect at the commencement of each such 10-year or succeeding interval.

SEC. 3. Section 20181 of the Government Code is amended to read:

20181. The obligations of this system to its members continue throughout their respective memberships, and the obligations of this system to and in respect to retired members continue throughout the lives of the respective retired members, and thereafter until all obligations to their respective beneficiaries under optional settlements have been discharged. The obligations of the state and contracting agencies to this system in respect to members employed by them, respectively, continue throughout the memberships of the respective members, and the obligations of the state and contracting agencies to this system in respect to retired members formerly employed by them, respectively, continue until all of the obligations of this system in respect to those retired members, respectively, have been discharged. The obligations of any member to this system continue throughout his membership, and thereafter until all of the obligations of this system to or in respect to him have been discharged. For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, whether

pursuant to Sections 20165, 20180, or 20527, or otherwise, the period of limitation of actions otherwise applicable shall not be deemed to commence or to have commenced to run until the error or omission has been discovered, as evidenced by the filing with this system of a claim or demand against this system or by the making of a claim or order for payment by this system against a member, a contracting agency or the state, except that with respect to actions against a retired member, or beneficiary based upon erroneous payment from or to this system, which payment is not erroneous because of the death of the retired member or beneficiary, or because of the remarriage of the beneficiary the period of limitation shall commence from the date of such payment.

SEC. 4. Section 20360 of the Government Code is amended to read:

20360. A person directly appointed by the Governor, without the nomination of any officer or board, or an officer or an employee directly appointed by the Attorney General, Lieutenant Governor, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction exempt from civil service under the provisions of Article VII of the Constitution, except those appointed pursuant to subdivision (i) of Section 4 thereof, is excluded from membership in this system unless he files with the board an election in writing to become a member. He may so elect at any time, and has the option of making contributions to this system in the amount which he would have contributed had he not been so excluded, plus an amount equal to the interest, to the date or dates of his payment, which would have been credited to those contributions had he not been so excluded. Such contributions and interest shall be paid to this system at times, in amounts, and in a manner fixed by the board. If he affirmatively exercises the option:

(a) He shall receive credit for prior service in the same manner as if he had not been excluded, and

(b) His rate of contribution shall be based on the contribution rate in effect at the time he first was excluded.

SEC. 5. Section 20361 of the Government Code is amended to read:

20361. An elective officer is excluded from membership in this system unless he files with the board an election in writing to become a member. He may so elect at any time, and has the option of making contributions to this system in the amount which he would have contributed had he not been so excluded, plus an amount equal to the interest, to the date or dates of his payment, which would have been credited to those contributions had he not been so excluded. Such contributions and interest shall be paid to this system at times, in amounts, and in a manner fixed by the board. If he affirmatively exercises the option:

(a) He shall receive credit for prior service in the same manner as if he had not been excluded, and

(b) His rate of contributions shall be based on the nearest age at

the time he first was excluded.

As used in this part, "elective officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of such houses of the Legislature, and any appointive officer of a city or county occupying a fixed term of office, and any person holding the office of city attorney, as well as officers of the state or contracting agencies elected by the people.

The amendments to this section at the 1971 Regular Session shall not apply to a member who on the effective date of such amendments is the incumbent of the office of city attorney in two or more contracting agencies, while he continues in all of such offices.

SEC. 6. Section 20894 of the Government Code is amended to read:

20894. When a member makes the contributions as provided in Section 20892.5, the same contributions shall be made by the state or contracting agency with respect to the absence that would have been made if the member had not been absent on military service, except that the contributions shall be determined by the employer rate of contribution in effect when the contributions are made and may be included in the employer rate of contribution at the next valuation.

SEC. 7. Section 21208 is added to the Government Code, to read:

21208. In lieu of receiving a monthly allowance which is less than ten dollars ($10) per month, the beneficiary or survivor entitled to the allowance may elect to receive the actuarial equivalent of the monthly allowance in one payment. Payment of the actuarial equivalent amount pursuant to that election discharges the system from all further liability for the allowance otherwise payable. The beneficiary or survivor may make the election provided by this section within 90 days from the date the system notifies him or her of the right to make the election.

SEC. 8. Section 21370 of the Government Code is amended to read:

21370. If any benefit is payable by this system to the estate of a deceased person, and the estate would not be probated if no amount were due from this system, but there is no surviving person in any of the groups specified in Section 21368, or if the designated beneficiary cannot be found by the board, the board may in its discretion pay expenses of the disposition of the body as evidenced by itemized statements or documents as the board may require. Payment may not exceed the amount payable under this system to the estate or beneficiary. Payment so made is a full discharge of the board and system for the amount so paid.

SEC. 9. Section 75111 is added to the Government Code, to read:

75111. (a) Whenever a person entitled to payment of a member's contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) Whenever the amount of a benefit payable by this system

cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be acertained, the contributions of the member on whose account the benefit is payable shall be administered in accordance with subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the retirement fund and held for the claimant without accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become a part of the fund. Transfer to the fund shall be made as of the June 30th next following the expiration of the four-year period.

The board may at any time after transfer of proceeds to the fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

CHAPTER 774

An act to add Section 1797.215 to the Health and Safety Code, relating to emergency services.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 1797.215 is added to the Health and Safety Code, to read:

1797.215. Notwithstanding any other provision of law, EMT-I's, EMT-II's, and EMT-P's shall be required to renew their cardiopulmonary resuscitation certificate no more than once every two years.

CHAPTER 775

An act to add and repeal Section 5124 of the Civil Code, relating to community property.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 5124 is added to the Civil Code, to read:

5124. (a) Community property settlements, judgments, or decrees that became final on or after June 25, 1981, and before February 1, 1983, may be modified to include a division of military retirement benefits payable on or after February 1, 1983, in a manner consistent with federal law and the law of this state as it existed before June 26, 1981, and as it has existed since February 1, 1983.

(b) Modification of community property settlements, judgments, or decrees under this section may be granted whether or not the property settlement, judgment, or decree expressly reserved the pension issue for further determination, omitted any reference to a military pension, or assumed in any manner, implicitly or otherwise, that a pension divisible as community property before June 25, 1981, and on or after February 1, 1983, was not, as of the date the property settlement, judgment, or decree became final, divisible community property.

(c) Any proceeding brought pursuant to this section shall be brought before January 1, 1986.

(d) This section shall remain in effect only until January 1, 1986, and on that date is repealed unless a later enacted statute which is chaptered before that date deletes or extends that date.

CHAPTER 776

An act to add and repeal Section 41814 of the Health and Safety Code, relating to air pollution.

[Became law without Governor's signature Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 41814 is added to the Health and Safety Code, to read:

41814. Notwithstanding any other provision of this division, in the Sierra 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 two years from January 1, 1984, may be disposed of by means of an air curtain destructor. The authority provided by this section shall apply only to existing solid waste disposal sites which receive less than 25 tons of solid waste for disposal per week. Emissions from the air curtain destructor shall be monitored by the state board, and records of disposal volumes and costs of operation shall be kept by Sierra County. Annual reports of information collected, including the extent to which the air curtain destructor meets the emission rules, regulations, and orders of the

district and the state board, shall be filed by the Sierra County Air Pollution Control District with the state board.

At the end of the two-year 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 Sierra County, shall establish a list of toxic materials that will be removed from the solid waste prior to use of the air curtain destructor. The health officer of the County of Sierra, pursuant to Part 2 (commencing with Section 450) of Division 1, or the Division of Occupational Safety and Health in the Department of Industrial Relations, pursuant to Division 5 (commencing with Section 6300) of the Labor Code, shall order an immediate halt to the use of an air curtain destructor in Sierra County if either the health officer or the division finds that the operation adversely affects the health or safety of the public or of the operators.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 777

An act to amend Section 17008 of the Health and Safety Code, relating to employee housing.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 17008 of the Health and Safety Code is amended to read:

17008. (a) "Labor camp," as used in this part, means any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobilehome, or other housing accommodations, including employee housing or labor supply camp, maintained in connection with any work or place where work is being performed, whether or not rent is involved, and the premises upon which they are situated or the area set aside and provided for parking of mobilehomes or camping of five or more employees by the employer.

(b) "Labor camp," as used in this part, also includes any housing

accommodations which are located in any rural area, as defined by Section 50101, that are not maintained in connection with any work or work place, and which have been used prior to January 1, 1984, or is used on or after that date, for any of the purposes described in subdivision (a), but which is provided for any of those purposes, on or after January 1, 1984, by someone other than an agricultural employer, as defined in Section 1140.4 of the Labor Code. "Labor camp," as defined by this subdivision, does not include a hotel, motel, inn, tourist hotel, or permanent housing as defined by subdivision (d) of Section 17010, which has not been maintained, prior to January 1, 1984, or is not maintained on or after that date, for use in connection with any work or workplace.

"Labor camp" does not include employee community housing, as defined by Section 17005.5, which has been granted an exemption pursuant to Section 17031.3; housing, and the premises upon which it is situated, owned by a public entity or a private nonprofit entity; or privately owned housing, and the premises upon which it is situated, financed with public funds equaling 50 percent or more of the purchase cost.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 778

An act to amend Section 1275 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 1275 of the Health and Safety Code is amended to read:

1275. (a) The state department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state including, but not limited to, the State Building Standards Law, Part 2.5 (commencing with Section 18901) of

Division 13.

All regulations in effect on December 31, 1973, which were adopted by the State Board of Public Health, the State Department of Public Health, the State Department of Mental Hygiene, or the State Department of Health relating to licensed health facilities shall remain in full force and effect until altered, amended, or repealed by the director or pursuant to Section 25 or other provisions of law.

(b) Notwithstanding this section or any other provision of law, the Office of Statewide Health Planning and Development shall adopt and enforce regulations prescribing building standards for the adequacy and safety of health facility physical plants.

CHAPTER 779

An act to amend Section 1209 of the Penal Code, relating to prisoners.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 1209 of the Penal Code is amended to read:

1209. Upon conviction of any criminal offense for which the court orders the confinement of a person in the county jail, or other suitable place of confinement, either as the final sentence or as a condition of any grant of probation, and allows the person so sentenced to continue in his or her regular employment by serving the sentence on weekends or similar periods during the week other than their regular workdays and by virtue of this schedule of serving the sentence the prisoner is ineligible for work furlough under Section 1208, the county may collect from the defendant according to the defendant's ability to pay so much of the costs of administration of this section as are allocable to such defendant. The amount of this fee shall not exceed the actual costs of such confinement and may be collected prior to completion of each weekly or monthly period of confinement until the entire sentence has been served, and the funds shall be deposited in the county treasury pursuant to county ordinance.

The court, upon allowing sentences to be served on weekends or other nonemployment days, shall conduct a hearing to determine if the defendant has the ability to pay all or a part of the costs of administration without resulting in unnecessary economic hardship to the defendant and his or her dependents. At the hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the evidence against the defendant,

and a written statement of the findings of the court. If the court determines that the defendant has the ability to pay all or part of the costs of administration without resulting in unnecessary economic hardship to the defendant and his or her dependents, the court shall advise the defendant of the provisions of this section and order him or her to pay all or part of the fee as required by the sheriff, probation officer, or Director of the County Department of Corrections, whichever the case may be. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

As used in this section, the term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, and shall include, but shall not be limited to, the following:

(a) The defendant's present financial position.

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

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

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

Execution may be issued on the order in the same manner as a judgment in a civil action.

The order to pay all or part shall not be enforced by contempt. At any time during the pendency of the judgment, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of making the judgment.

CHAPTER 780

An act to amend Section 24701 of the Education Code, and to add Sections 20009.9 and 22840.1 to the Government Code, relating to public retirement systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 24701 of the Education Code is amended to read:

24701. (a) Annual cost-of-living adjustments for retirants, disabilitants, and beneficiaries in excess of the 2-percent adjustment authorized by Section 22131 may be included as a General Fund appropriation in the annual Budget Act. In the annual budget submitted to the Legislature, the Governor shall include a budget item equal to 5 percent of the average annualized statewide increase in payroll for certificated personnel over the three previous school years among school districts, county offices of education, and community college districts.

The amount submitted in the Budget Act pursuant to this section shall be considered as part of the overall budget allocations to the public schools and community colleges.

(b) The annual appropriation shall be made to the State Teachers' Retirement System on July 1, and shall be placed in a segregated account called the Retirees' Purchasing Power Protection Account. The proceeds of that account are continuously appropriated and shall be distributed annually in quarterly payments commencing on September 1 to retirants, disabilitants, and beneficiaries as follows:

(1) The proceeds shall be allocated among those retirants, disabilitants, and beneficiaries whose allowances, after applying the 2-percent adjustment authorized by Section 22131, have the lowest purchasing power percentage, based on the amount that would be paid had the original allowance been increased by increases in the index then being used by the Department of Finance to measure changes in the cost of living, increasing those allowances to a common minimum purchasing power level. In any year in which the purchasing power of the allowances of all retirants, disabilitants, and beneficiaries equals not less than 75 percent and additional funds remain from the allocation authorized by this section, those funds shall be allocated by the board to general accounts to reduce the unfunded actuarial liability of the fund.

(2) The board may deduct from the annual appropriation an amount necessary for administrative expenses to implement this section.

(c) The board shall inform each recipient of benefits under subdivision (b) that the increases are not cumulative, not part of the base retirement allowance, and will be available only as appropriated annually in the state Budget Act.

(d) The adjustments authorized by this section shall not be included in the base allowance for purposes of calculating the 2-percent adjustment authorized by Section 22131.

(e) It is the ultimate intent and purpose of the Legislature in amending this section at the 1983–84 Regular Session to achieve a common minimum purchasing power level equal to 75 percent of the purchasing power of the original retirement allowance. It is the present intent of the Legislature that until adequate funds are available to fulfill the ultimate intent, those persons whose

retirement allowances have been most impacted by inflation shall be accorded first priority in receiving pursuant to this section supplemental cost-of-living adjustments from the Retirees' Purchasing Power Protection Account.

SEC. 2. Section 20009.9 is added to the Government Code, to read:

20009.9. (a) Except as provided in subdivision (b), "public agency" also includes any entity formed pursuant to the Federal Job Training Partnership Act of 1982 (29 U.S.C. Sec. 1501 et seq.) or Division 8 (commencing with Section 15000) of the Unemployment Insurance Code.

(b) "Public agency," for purposes of this part, does not include a "Private Industry Council" as set forth in the Federal Job Training Partnership Act of 1982 (29 U.S.C. Sec. 1501 et seq.) or Division 8 (commencing with Section 15000) of the Unemployment Insurance Code.

SEC. 3. Section 22840.1 is added to the Government Code, to read:

22840.1. In recognition of the escalating costs of hospital and medical care to public employers and employees, and the demonstrated effectiveness of certain cost containment design features in other health benefits programs, the sum of two hundred thousand dollars ($200,000) is hereby appropriated from the Public Employees' Medical and Hospital Care Act Contingency Reserve Fund to the Board of Administration of the Public Employees' Retirement System for the purpose of retaining a qualified health cost consultant to determine the feasibility of applying certain cost containment methodologies to the Public Employees' Retirement System health benefits program and to assist the Board of Administration in implementing any recommendations authorized.

It is the intent of the Legislature in authorizing this appropriation to ensure that all appropriate cost containment methodologies are evaluated including, but not limited to, provider cost containment, plan benefit design, utilization controls, adverse selection controls, and plan administration alternatives, including self-insurance.

The Public Employees' Retirement System shall make periodic progress reports to the Legislative Budget Committee and to the Chairman of the Senate Public Employment and Retirement Committee and the Chairman of the Assembly Public Employees and Retirement Committee and the Department of Personnel Administration and shall present the findings of the consultant at a joint interim hearing of the above policy committees to be held in December of 1983. The Department of Personnel Administration shall be provided a copy of the findings of the consultant and proposed legislative changes as early as possible prior to the joint interim hearing. The Public Employees' Retirement System shall also present at the joint interim hearing a summary of any legislation that the Board of Administration intends to sponsor resulting from the recommendations of the consultant.

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:

Certain cost-of-living increases of retired certificated school employees are tied to the Governor's Budget and subject to legislative scrutiny during the budget approval process. In order to meet the deadlines of the 1983–84 budget process, it is necessary that this act take effect immediately.

CHAPTER 781

An act to add Part 5.3 (commencing with Section 19952) to Division 13 of the Health and Safety Code, relating to physically disabled persons.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Part 5.3 (commencing with Section 19952) is added to Division 13 of the Health and Safety Code, to read:

PART 5.3. ACCESS TO PLACES OF PUBLIC AMUSEMENT AND RESORT BY PHYSICALLY HANDICAPPED PERSONS

19952. (a) Any person, or public or private firm, organization, or corporation, who owns or manages places of public amusement and resort including theaters, concert halls, and stadiums shall provide seating or accommodations for physically disabled persons in a variety of locations within the facility, to the extent that such variety can be provided while meeting fire and panic safety requirements of the State Fire Marshal, so as to provide such persons a choice of admission prices otherwise available to members of the general public.

(b) Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users.

(c) The requirements of this section shall apply with respect to publicly and privately owned facilities or structures for the purposes specified in subdivision (a) for which a building permit or a building plan for new construction has been issued on or after January 1, 1985. This section shall not apply to a hotel or motel. As used in this section, "new construction" does not include the remodeling or alteration of a theatre, concert hall, or stadium originally constructed prior to January 1, 1985.

19953. Any person who is aggrieved or potentially aggrieved by a violation of this part, Chapter 7 (commencing with Section 4450)

of Division 5 of Title 1 of the Government Code, or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the violation. The prevailing party in the action shall be entitled to recover reasonable attorney's fees.

19954. The district attorney, the city attorney, the Department of Rehabilitation acting through the Attorney General, or the Attorney General may bring an action to enjoin any violation of this part.

CHAPTER 782

An act to amend Section 1051 of the Penal Code, relating to discovery.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 1051 of the Penal Code is amended to read:

1051. Upon a trial for any offense, if a defense witness testifies, there shall be good cause for a reasonable continuance unless the court finds that the prosecutor was or should, with due diligence, have been aware of such evidence. If the continuance is granted because of the defendant's testimony, it shall not exceed one day.

CHAPTER 783

An act to amend Sections 11493.5 and 11512 of the Insurance Code, relating to insurance.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 11493.5 of the Insurance Code is amended to read:

11493.5. Every nonprofit hospital service corporation organized or admitted under this chapter is hereby declared to be a charitable and benevolent institution and all of its funds and assets shall be exempt from all and every state, county, district, municipal and school tax and other levies other than taxes on real estate and office equipment. The provisions of this section prohibit the imposition of a tax on the transfer of tangible assets to a nonprofit hospital service plan, licensed on or after July 1, 1982, under Chapter 11a (commencing with Section 11491) of Part 2 of Division 2, from

another nonprofit hospital service plan. This prohibition is applicable only to transfers concluded before January 1, 1983.

The amendments to this section made at the 1983–84 Regular Session of the Legislature do not constitute a change in, but are declaratory of, the existing law.

SEC. 2. Section 11512 of the Insurance Code is amended to read:

11512. No hospital service contract shall be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

(a) Unless the entire consideration therefor is expressed in the contract;

(b) Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution;

(c) If the contract purports to entitle more than one person to benefits or services except family hospital service contracts issued under Section 11512.1, group hospital service contracts issued under Section 11512.2 and blanket contracts issued under Section 11512.4;

(d) Unless every printed portion and any endorsement or attached papers is plainly printed in type of which the face is not smaller than 10 points;

(e) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply;

(f) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless, if any portion of such contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, such portion is printed in boldface type and with greater prominence than any other text of the contract;

(g) If the contract contains any provisions purporting to make any portion of the charter, constitution or bylaws of such nonprofit corporation a part of the contract unless such portion is set forth in full in the contract;

(h) Except for a comprehensive health care contract issued under subdivision (e) of Section 11493, unless the contract for hospital service contains in blackface type not less than 10-point the following provisions:

Nothing in this contract contained shall in any way or manner restrict or interfere with the right of any individual entitled to hospital service and care hereunder to select the contracting hospital or to make a free choice of his attending physician, who shall be the holder of a valid and unrevoked physician and surgeon's certificate and who is a member of, or acceptable to, the attending staff and board of directors of the hospital in which said hospital services are to be provided and rendered:

A contract need not contain the foregoing provisions of this subdivision when a plan has negotiated and entered into contracts for alternative rates of payment with institutional providers, and offers the benefits of such alternative rates to group contractors who selects such providers. A contract need not contain the foregoing provisions when a plan, by agreement with group contractors limits payments under a contract to services secured by subscribers from institutional providers charging alternative rates pursuant to contract with such plan. On and after July 1, 1983, the provisions of this subdivision shall also be applicable with respect to both professional and institutional providers.

(i) Contracts for alternative rates of payment with institutional and professional providers made pursuant to subdivision (h) of this section shall be executed in the name of the plan and fully disclosed to the contracting providers.

A contract which, by agreement with group contractors, limits payments to services secured by subscribers from providers charging alternative rates shall meet the provisions of Section 10133.5 of the Insurance Code.

A contract which, by agreement with group contractors limits payments under a contract to services secured by subscribers from institutional providers charging alternative rates pursuant to contract with such plan, and after July 1, 1983, to services secured by both professional and institutional providers, shall include programs for the continuous review of the quality of care, performance of medical personnel, utilization of services and facilities and costs by professionally recognized unrelated third parties utilizing in the case of professional providers similarly licensed providers for each medical and dental service covered under the plan and utilizing in the case of institutional providers appropriate professional providers. All provisions of the laws of the state relating to immunity from liability and discovery privileges for medical and dental peer review shall apply to the licensed providers performing the foregoing activities.

Nothing in this section shall be construed to authorize a plan to engage in the practice of medicine, or to exercise medical or dental professional judgment.

(j) If such contract contains coverage for sterilization operations or procedures and it imposes any disclaimer, restriction on, or limitation of coverage relative to the insured's reason for sterilization. All such contracts entered into or renewed on or after March 7, 1973, shall be construed to be in compliance with this section, and any provision in any such contract which is in conflict with this section shall be of no force or effect;

(k) Unless, in the case of a contract which provides benefits that accrue after a certain time of confinement in a health care facility, the contract specifies what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

CHAPTER 784

An act to amend Section 3 of Chapter 1070 of the Statutes of 1978, relative to insurance.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 3 of Chapter 1070 of the Statutes of 1978 is amended to read:

Sec. 3. Section 2 of this act shall remain in effect until January 1, 1988, and on such date is repealed.

CHAPTER 785

An act to add Article 3 (commencing with Section 440) to Chapter 1 of Division 3 of the Harbors and Navigation Code, relating to pilots.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. The Legislature hereby finds and declares that it is the policy of the state to ensure the safety of persons, vessels, and property using San Pedro Bay, and the tributaries and approaches thereof, and to avoid damage to those waters and surrounding ecosystems as a result of vessel collision or damage, through preserving and promoting the availability of piloting services by limiting and regulating the liability of pilots. The Legislature further finds and declares that the provisions of this act are necessary to effect those purposes and to conform to existing custom and usage in San Pedro Bay.

SEC. 2. Article 3 (commencing with Section 440) is added to Chapter 1 of Division 3 of the Harbors and Navigation Code, to read:

Article 3. Liability of Licensed Pilots for San Pedro Bay

440. Pilots holding valid licenses for San Pedro Bay and its approaches and tributaries, their associations, employers, and others providing piloting services in San Pedro Bay are authorized to limit liability for the rendering and performance of those services by contracts or tariffs containing substantially the terms and provisions set forth in this article.

441. The rates and charges for pilotage services do not include

insurance covering the vessel or its owners, agents, charterers, or operators from the consequences of negligence of the pilot supplying the pilotage services, the pilot's employer, or other employees of the pilot's employer.

442. Upon reasonable notice from the owners, agents, charterers, or operators, a pilot shall provide insurance covering the vessel, its owners, agents, charterers, or operators from the consequences of negligence of the pilot supplying the pilotage services, the pilot's employer, or other employees of the pilot's employer on a trip insurance basis with limits of coverage established by agreement between the pilot and the party requesting the insurance, the premium of which will be assessed in addition to the rates and charges for the pilotage services.

443. The election of the owners, agents, charterers, or operators to use a pilot through whom trip insurance could have been obtained shall constitute a binding and irrevocable agreement on the part of the owners, agents, charterers, and operators to the terms and conditions set forth in Section 444.

444. It shall be understood and agreed, and shall be the essence of any agreement under which services of the pilot are tendered to and are accepted by owners, agents, charterers, or operators, as follows:

(a) The vessel requesting pilotage services and its owners, agents, charterers, and operators covenant and agree not to assert any claims against the pilot, the pilot's employer, or other employees of the pilot's employer for damages, including any rights over, arising out of, or connected with, directly or indirectly, any damage, loss, or expense sustained by the vessel, its owners, agents, charterers, operators, or crew, and by any third parties, even through resulting in whole or in part from acts, omissions, or negligence of the pilot, the pilot's employer, or other employees of the pilot's employer. The vessel and its owners, agents, charterers, and operators further covenant and agree, subject to any limitation of liability to which they are entitled by reason of any contract, bill of lading, statute, or other provision of law in force, to indemnify and hold harmless the pilot, the pilot's employer, and other employees of the pilot's employer with respect to liability arising from any and all claims, suits, or actions, by whomsoever asserted, resulting in whole or in part from acts, omissions, or negligence of the pilot, the pilot's employer, or other employees of the pilot's employer. These covenants and agreements do not apply to such liability and rights as may arise from the willful misconduct or gross negligence of the pilot, the pilot's employer, or other employees of the pilot's employer.

(b) If any vessel on whose behalf pilotage services are requested is not owned by the person or entity ordering the services, that person or entity warrants its authority to bind the vessel and its owners, charterers, and operators to all the provisions contained in subdivision (a), and that person and entity agree to indemnify and

hold harmless, the pilot, the pilot's employer, and other employees of the pilot's employer with respect to all losses, damages, and expenses that may be suffered or incurred in consequence of the person or entity not having that authority.

(c) Pilotage services are voluntarily requested, and are voluntarily rendered in reliance upon the terms specified in subdivisions (a) and (b).

(d) This article does not affect the rights of third parties against a vessel, its master, owners, agents, charterers, or operators, or a pilot, the pilot's employer, or other employees of a pilot's employer.

(e) This article does not preclude any pilot or pilot's employer from entering into contracts with the owners, agents, charterers, or operators of a vessel which contain additional pilotage terms and conditions.

SEC. 3. The Legislative Analyst shall prepare and submit to the Legislature on or before January 1, 1986, a report examining the issue of limiting the liability of pilots and their employers as provided by this act and the effects of this limited liability on the maritime industry.

CHAPTER 786

An act to add Section 1669 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 1669 is added to the Vehicle Code, to read:

1669. It is the intent of the Legislature that the department implement procedures to ensure, to the fullest extent permitted by the resources made available to it, that any person who is requesting services relating to registration of vessels or vehicles, or who is applying for an original or renewal of a driver's license or identification card, will not be required under normal circumstances to wait in any one line for service longer than one-half hour during the department's published or posted hours of operation. Every office of the department shall have posted, at or near the entrance thereto, its hours of operation.

SEC. 2. The Legislative Analyst shall examine and report to the Legislature on or before July 1, 1984, on his or her recommendations on how best to allocate resources, funds, and personnel of all agencies receiving funds from the Motor Vehicle Account in the State Transportation Fund in order to achieve the provision of services as provided in Section 1669 of the Vehicle Code.

CHAPTER 787

An act to add Section 65589.8 to the Government Code, relating to housing.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 65589.8 is added to the Government Code, to read:

65589.8. A local government which adopts a requirement in its housing element that a housing development contain a fixed percentage of affordable housing units, shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

Nothing in this section shall be construed to expand or contract the authority of a local government to adopt an ordinance, charter amendment, or policy requiring that any housing development contain a fixed percentage of affordable housing units.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 788

An act to add Section 6710 to the Labor Code, relating to occupational safety and health.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 6710 is added to the Labor Code, to read:

6710. (a) At every place of employment where explosives are used in the course of employment, there shall be a person licensed

pursuant to the provisions of Chapter 3 (commencing with Section 7990) of Part 9 of Division 5, to supervise and direct the blasting operation.

(b) For the purposes of this section, "explosives" shall include, but not be limited to, class A and B explosives, blasting caps, detonating cord, and charges or projectiles used in the control of avalanches. For the purposes of this section, "explosives" shall not include small arms ammunition or class C explosives such as explosive powerpacks in the form of explosive cartridges or explosive-charged construction devices, explosive rivets, bolts, and charges for driving pins and studs, and cartridges for explosive-actuated power devices.

(c) This section shall not apply to persons, firms, or corporations licensed pursuant to Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code.

CHAPTER 789

An act to amend Sections 4933, 4938, 4939, 4940, 4944, and 4965 of, and to repeal Section 4974.5 of, the Business and Professions Code, relating to acupuncture.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 4933 of the Business and Professions Code is amended to read:

4933. (a) The committee shall administer the provisions of this chapter.

(b) 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.

(c) A majority of the appointed members of the committee shall constitute a quorum to conduct business.

(d) It shall require an affirmative vote of a majority of those present at a meeting of the committee to take any action or pass any motion.

SEC. 2. Section 4938 of the Business and Professions Code is amended to read:

4938. The committee shall issue a certificate to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of (1) an educational and training program or (2) a tutorial program in the practice of an acupuncturist which is approved by the committee.

(c) An applicant who has satisfied paragraph (1) of subdivision (b) and was issued a diploma to practice acupuncture by a school not located in the United States shall complete a period of clinical service in California, prior to taking the certification examination, which does not exceed nine months under the supervision of a certified acupuncturist approved by the committee in a manner satisfactory to the committee. The supervising acupuncturist shall evaluate the applicant at periods determined by the committee and report his or her findings to the committee.

(d) Passes an examination administered by the committee which tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The examination shall include a practical examination of the skills required to competently engage in such practice. Such examination shall be prepared and administered in accordance with regulations adopted by the committee.

(e) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

SEC. 3. Section 4939 of the Business and Professions Code is amended to read:

4939. The committee shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges, and tutorial programs, completion of which will satisfy the requirements of Section 4938.

SEC. 4. Section 4940 of the Business and Professions Code is amended to read:

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 and a training program satisfactory to the committee.

(4) Does not train or employ more than two acupuncture trainees at any one time.

(5) Has at least seven years of experience practicing as an acupuncturist.

(6) Is found by the committee to have the knowledge necessary to educate and train the trainee in the practice of an acupuncturist.

SEC. 5. Section 4944 of the Business and Professions Code is

amended to read:

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 shall investigate and evaluate each school or college applying for approval under Section 4939 and may utilize and contract with consultants to evaluate those training programs.

(c) The committee may delegate to the executive officer or other official of the board its authority under this section in routine matters.

SEC. 6. Section 4965 of the Business and Professions Code is amended to read:

4965. (a) Certificates issued pursuant to this chapter shall expire on the last day of the birth month of the licensee during the second year of a two-year term, if not renewed.

(b) The committee shall establish and administer a birth date renewal program.

(c) 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.

SEC. 7. Section 4974.5 of the Business and Professions Code is repealed.

CHAPTER 790

An act to amend Sections 11054, 11056, 11350, 11351, 11352, 11353, 11354, 11355, 11364, 11365, 11366, 11370, 11371, 11371.1, and 11550 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 11054 of the Health and Safety Code is amended to read:

11054. (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 I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetylmethadol.

(2) Allylprodine.

(3) Alphacetylmethadol.

(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Propiran.
(42) Racemoramide.
(43) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-oxide.

(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methyldihydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Phoclodine.
(22) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxylamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marijuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.

(e) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Methaqualone, its salts, isomers and salts of its isomers.

SEC. 2. Section 11056 of the Health and Safety Code is amended to read:

11056. (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 III.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.

(2) Chlorhexadol.

(3) Glutethimide.

(4) Lysergic acid.

(5) Lysergic acid amide.

(6) Methyprylon.

(7) Sulfondiethylmethane.

(8) Sulfonethylmethane.

(9) Sulfonmethane.

(c) Nalorphine.

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SEC. 3. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

(b) Except as otherwise provided in this division, every person who possesses any controlled substance specified in subdivision (e) of Section 11054 shall be punished by imprisonment in the county jail for not more than one year or in the state prison.

SEC. 4. Section 11351 of the Health and Safety Code is amended to read:

11351. Except as otherwise provided in this division, every person who possesses for sale (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, shall be punished by imprisonment in the state prison for two, three, or four years.

SEC. 5. Section 11352 of the Health and Safety Code is amended to read:

11352. Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 6. Section 11353 of the Health and Safety Code is amended to read:

11353. Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance which is specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055

or, (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 7. Section 11354 of the Health and Safety Code is amended to read:

11354. (a) Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055 or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison.

(b) This section is not intended to affect the jurisdiction of the juvenile court.

SEC. 8. Section 11355 of the Health and Safety Code is amended to read:

11355. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055 or, (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 9. Section 11364 of the Health and Safety Code is amended to read:

11364. It is unlawful to possess an opium pipe or any device, contrivance, instrument or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in

subdivision (b) or (c) of Section 11055 or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

SEC. 10. Section 11365 of the Health and Safety Code is amended to read:

11365. It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring.

SEC. 11. Section 11366 of the Health and Safety Code is amended to read:

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 12. Section 11370 of the Health and Safety Code is amended to read:

11370. (a) Any person convicted of violating Section 11350, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, or 11368, or of committing any offense referred to in those sections, shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him suspended by the court, if he has been previously convicted of any offense described in subdivision (c).

(b) Any person who was 18 years of age or over at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or, (2) which is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use such a controlled substance in violation of law shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him suspended by the court.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (10), (11), (12), or (17) of

subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

SEC. 13. Section 11371 of the Health and Safety Code is amended to read:

11371. Any person who shall knowingly violate any of the provisions of Section 11153, 11154, 11155, or 11156 with respect to (1) a controlled substance specified in subdivision (b), (c), or (d) of Section 11055, or (2) a controlled substance specified in paragraph (1) of subdivision (b) of Section 11056, or (3) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both such fine and imprisonment.

SEC. 14. Section 11371.1 of the Health and Safety Code is amended to read:

11371.1. Any person who shall knowingly violate any of the provisions of Section 11173 or 11174 with respect to (1) a controlled substance specified in subdivision (b), (c), or (d) of Section 11055, or (2) a controlled substance specified in paragraph (1) of subdivision (b) of Section 11056, or (3) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

SEC. 15. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, excepting when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of

spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in subdivision (e) of Section 11055, excepting when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail.

CHAPTER 791

An act to amend Section 14790.5 of the Government Code, and to add Chapter 3.5 (commencing with Section 12120) to Division 2 of Part 2 of, the Public Contract Code, relating to public contracts.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 14790.5 of the Government Code is amended to read:

14790.5. Purchases of telecommunications and electronic data-processing supplies and equipment as provided for in Chapter 3 (commencing with Section 12100) and Chapter 3.5 (commencing with Section 12120) of Division 2 of Part 2 of the Public Contract Code are not subject to this article.

SEC. 2. Chapter 3.5 (commencing with Section 12120) is added to Division 2 of Part 2 of the Public Contract Code, to read:

CHAPTER 3.5. ACQUISITION OF TELECOMMUNICATIONS GOODS AND SERVICES

12120. The Legislature finds and declares that, with the advent of deregulation in the telecommunications industry, substantial cost savings can be realized by the state through the specialized evaluation and procurement of alternative telecommunications systems. All contracts for the acquisition of telecommunications services and all contracts for the acquisition of telecommunications goods, whether by lease or purchase, shall be made by, or under the

supervision of, the Department of General Services. All procurements shall be accomplished in accordance with Chapter 3 (commencing with Section 12100), relating to the acquisition of electronic data-processing goods and services, except to the extent any directive or provision is uniquely applicable to electronic data-processing acquisitions. The Department of General Services shall have sole responsibility for the establishment of tactical policy and procedures for telecommunications and data-processing acquisitions consistent with statewide strategic policy as established by the Department of Finance. The Department of Finance shall have review and approval responsibility of data-processing information and telecommunication systems to assure consistency with budgetary objectives.

12121. As used in this chapter:

(a) "Tactical policy" means the policies of an organization necessary to direct operational staff in carrying out their day-to-day activities.

(b) "Strategic policy" means policy which defines the goals and objectives for an organization.

CHAPTER 792

An act to amend Sections 12213, 12215, 12229, 12232, 12233, 12243, 12300, 12311, 12314, 12320, 12331, 12332, 12353, 12376, 12401, 12405, 12410, 12442, 12451, 12461, 12462, 12463, 12504, 12580, 12592, 12608, 12631, and 25100 of, to add Sections 12256 and 12316 to, and to repeal and add Section 12375 to, the Corporations Code, relating to corporations.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 12213 of the Corporations Code is amended to read:

12213. Any agreement, certificate, or other instrument filed pursuant to the provisions of this part, may be corrected with respect to any misstatement of fact contained therein, any defect in the execution thereof or any other error or defect contained therein, by filing a certificate of correction entitled "Certificate of Correction of _____ (insert here the title of the agreement, certificate or other instrument to be corrected and the name of the corporation or corporations)." However, no such certificate of correction shall alter the wording of any resolution which was in fact adopted by the board or the members or delegates or effect a corrected amendment of articles which amendment as so corrected would not in all respects have complied with the requirements of this part, at the time of filing

of the agreement, certificate or other instrument being corrected. Such certificate of correction shall be signed and verified or acknowledged as provided in this part with respect to the agreement, certificate or other instrument being corrected. It shall set forth the following:

(a) The name or names of the corporation or corporations.

(b) The date the agreement, certificate or other instrument being corrected was filed.

(c) The provision in the agreement, certificate or other instrument as corrected and, if the execution was defective, wherein it was defective.

The filing of the certificate of correction shall not alter the effective time of the agreement, certificate or other instrument being corrected, which shall remain as its original effective time, and such filing shall not affect any right or liability accrued or incurred before such filing, except that any right or liability accrued or incurred by reason of the error or defect being corrected shall be extinguished by such filing if the person having such right has not detrimentally relied on the original instrument.

SEC. 2. Section 12215 of the Corporations Code is amended to read:

12215. Except as otherwise permitted, any reference in this part to mailing means first-class mail, postage prepaid, unless registered or some other form of mail is specified or permitted. Registered mail includes certified mail.

SEC. 3. Section 12229 of the Corporations Code is amended to read:

12229. "Chapter" refers to a chapter of this part unless otherwise expressly stated.

SEC. 4. Section 12232 of the Corporations Code is amended to read:

12232. "Corporation" as used in this part means a corporation which is organized under, or subject to this part, including a central organization.

SEC. 5. Section 12233 of the Corporations Code is amended to read:

12233. "Directors" means natural persons, designated in the articles or bylaws or elected by the incorporators, and their successors and natural persons designated, elected, or appointed by any other name or title to act as members of the governing body of the corporation. "Directors" also means alternate directors described in Section 12331.

SEC. 6. Section 12243 of the Corporations Code is amended to read:

12243. If the corporation is organized to provide goods or services to its members, the corporation's "patrons" are those who purchase those types of goods from, or use those types of service of, the corporation. If the corporation is organized to market, process or otherwise handle its members' products or services, the

corporation's "patrons" are those persons whose products or services are so marketed, processed, or handled by the corporation.

"Patronage" of a patron is measured by the volume or value, or both, of a patron's purchases of such products from, and use of such services furnished by, the corporation, and by such products and services provided by the patron to the corporation for marketing.

SEC. 7. Section 12256 is added to the Corporations Code to read:

12256. A central organization is a corporation whose membership is composed, in whole or in part, of other corporations organized under this part.

SEC. 8. Section 12300 of the Corporations Code is amended to read:

12300. (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) Where initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles. Where initial directors are not named in the articles, the articles shall be signed by a person or persons described in subdivision (a) who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

SEC. 9. Section 12311 of the Corporations Code is amended to read:

12311. (a) The names of all corporations formed under this part shall include "cooperative." No corporation shall be formed under this part unless there is affixed or prefixed to its name some word or abbreviation which will indicate that it is a corporation, as distinguished from a natural person, a firm, or an unincorporated association.

(b) No person shall adopt or use the word "cooperative" or any abbreviation or derivation thereof, or any word similar thereto, as part of the name or designation under which it does business in this state, unless incorporated as provided in this part or unless incorporated as a nonprofit cooperative association under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, as a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, as a limited-equity housing cooperative, as defined in Section 33007.5 of the Health and Safety Code, as a credit union or organization owned for the mutual benefit of credit unions, or under some other law of this state enabling it to do so. However, the foregoing prohibition shall be inapplicable to any credit union or organization owned for the mutual benefit of credit unions, or any housing cooperative, the financing of which is insured, guaranteed or provided, in whole or in part, by a public or statutorily chartered entity pursuant to a program created for housing cooperatives.

(c) A domestic or foreign corporation or association which did business in this state under a name or designation including the word

"cooperative" prior to September 19, 1939, and which conducts business on a cooperative basis substantially as set forth in this part, may continue to do business under that name or designation.

(d) Any person, firm, individual, partnership, trust, domestic corporation, foreign corporation, or association which did business in this state under a name or designation including the word "cooperative" prior to September 19, 1939, but which does not conduct business on a cooperative basis as contemplated by Section 12201 of this part, may continue to do business under that name or designation if the words "not organized under the law relating to cooperative corporations" are always placed immediately after the name or designation wherever it is used.

(e) Any foreign corporation, organized under and complying with the cooperative law of the state or other jurisdiction of its creation, may use the term "cooperative" in this state if it has complied with the laws of this state applicable to foreign corporations, insofar as those laws are applicable to it, and if it is doing business on a cooperative basis as contemplated by Section 12201.

SEC. 10. Section 12314 of the Corporations Code is amended to read:

12314. The articles of incorporation of a central organization, as defined in Section 12256, organized under or subject to this part may provide for unequal voting power of its members based upon the number of its members' members, the patronage of its members, or both. In no event shall any member have less than one vote.

SEC. 11. Section 12316 is added to the Corporations Code, to read:

12316. If initial directors have not been named in the articles of incorporation, the incorporators may do whatever is necessary and proper to perfect the organization of the corporation, including the adoption and amendment of bylaws of the corporation and the election of directors and officers, until the directors are elected.

SEC. 12. Section 12320 of the Corporations Code is amended to read:

12320. Subject to any limitations contained in the articles or bylaws and to compliance with other provisions of this part and any other applicable laws, a corporation, in carrying out its activities, shall have all of the powers of a natural person, including, without limitation, the power to:

(a) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument.

(b) Adopt, amend, and repeal bylaws.

(c) Qualify to conduct its activities in any other state, territory, dependency or foreign country.

(d) Issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own memberships, bonds, debentures, notes and debt securities.

(e) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and benefit plans, tgrusts and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its subsidiary or related or associated corporations, and to indemnif and purchase and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions.

(f) Issue certificates evidencing memberhsip in accordance with the provisions of Section 12401 and issue identity cards to identify those persons eligible to use the corporation's facilities.

(g) Levy dues, assessments, and membership and transfer fees.

(h) Make donations for the public welfarte or for community funds, hospital, charitable, educational, scientific, civic, religiousd or similar purposes.

(i) Assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income.

(j) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others.

(k) Act as trustee under any trust incidental to the principal objects of the corporation, and receive, hold, administer, exchange, and expend funds and property subject to such trust.

(*l*) Carry on a business at a profit and apply any profit and apply any profit that results from the business activity to any activity in which it may lawfully engage.

SEC. 12. Section 12331 of the Corporations Code is amended to read:

12331. (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 or 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 (Sections 12222 and 12224), in the manner provided in the bylaws, subject to subdivision (e). The number or minimum number of directors shall not be less than three. Alternate directors may be permitted, in which event, the bylaws shall specify the manner and times of their election and the conditions to their service in place of a director.

(b) 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.

(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, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 12313.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment of committees, composed of directors or nondirectors or both, by the board or any officer and the authority of any such committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments, and membership and transfer fees.

(9) The time and manner of patronage distributions consistent with this part.

(d) The bylaws may provide for eligibility, the manner of admission, withdrawal, suspension, and expulsion of members, and the suspension or termination of memberships consistent with the requirements of Section 12431.

(e) The bylaws may require, for any or all corporate actions, 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.

(g) The bylaws may provide for the establishment by the corporation of a program for the education of its members, officers, employees and the general public in the principles and techniques of cooperation.

SEC. 14. Section 12332 of the Corporations Code is amended to read:

12332. A corporation may provide in its bylaws for delegates having some or all of the authority of members. Where delegates are provided for, the bylaws shall set forth the delegates' terms of office, any reasonable method for delegates' selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates. Unless delegates are directly elected by the membership, they shall be elected by a body or bodies directly elected by the membership. Delegates may only act personally at a meeting or by written ballot but may not act by proxy. Delegates may be given a name other than "delegates."

SEC. 15. Section 12353 of the Corporations Code is amended to

read:

12353. (a) A corporation shall have a chairman of the board or a president or both, a secretary, a chief financial officer and such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments. The president, or if there is no president the chairman of the board, is the chief executive officer of the corporation, unless otherwise provided in the articles or bylaws. Any number of offices may be held by the same person unless the articles or bylaws provide otherwise. Either the chairman of the board or the president shall be elected from among those board members elected by the membership of the corporation.

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

SEC. 16. Section 12375 of the Corporations Code is repealed.

SEC. 17. Section 12375 is added to the Corporations Code, to read:

12375. (a) Unless prohibited by the articles or bylaws, a corporation may loan money or property to, or guarantee the obligation of, any director or officer of the corporation or of its parent, affiliate or subsidiary, provided:

(1) The board determines the loan or guaranty may reasonably be expected to benefit the corporation.

(2) Prior to consummating the transaction or any part thereof, the loan or guaranty is either:

(A) Approved by the members (Section 12224), without counting the vote of the director or officer, if a member.

(B) Approved by the vote of a majority of the directors then in office, without counting the vote of the director who is to receive the loan or the benefit of the guaranty.

(b) Notwithstanding subdivision (a), a corporation may advance money to a director or officer of the corporation or of its parent, affiliate or subsidiary, for any expenses reasonably anticipated to be incurred in the performance of the duties of the director or officer of the corporation or of its parent, affiliate or subsidiary, for any expenses reasonably anticipated to be incurred in the performance of the duties of the director or officer, provided that in the absence of such an advance the director or officer would be entitled to be reimbursed for these expenses by the corporation, its parent, affiliate, or subsidiary.

(c) The provisions of subdivisions (a) and (b) do not apply to credit unions, or to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender

value, or to loans permitted under any statute regulating any special class of corporations.

SEC. 18. Section 12376 of the Corporations Code is amended to read:

12376. (a) Subject to the provisions of Section 12371, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation or to the creditors entitled to institute an action under subdivision (c):

(1) The making of any distribution or purchase or redemption of memberships contrary to the provisions of Chapter 4 (commencing with Section 12450).

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapters 15 (commencing with Section 12620), 16 (commencing with Section 12630), and 17 (commencing with Section 12650).

(3) The making of any loan or guarantee contrary to Section 12375.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (b) of Section 12455.

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment; or

(3) Under paragraph (3) of subdivision (a) against any or all directors liable by any one or more members at the time of any corporate action specified in paragraph (3) of subdivision (a) who have not consented to the corporate action, without regard to the provisions of Section 12490.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guarantee.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guarantee.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

SEC. 19. Section 12401 of the Corporations Code is amended to read:

12401. (a) A corporation may issue, but is not required to issue, membership certificates. In the event that membership certificates are issued, the certificates shall state the information required to be contained in the disclosure document described in subdivision (b). 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) Except as provided in subdivision (e), prior to issuing a membership, the corporation shall provide the purchaser of a membership with a disclosure document. The disclosure document may be a prospectus, offering circular, brochure, or similar document, a specimen copy of the membership certificate, or a receipt which the corporation proposes to issue. The disclosure document shall contain the following information:

(1) A statement that the corporation is a cooperative corporation.

(2) A statement that a copy of the corporation's articles and bylaws will be furnished without charge to a member or prospective member upon written request, and the address of the office of the corporation and the address to which such a written request is to be directed.

(3) If there are restrictions imposed by the corporation upon the transfer of membership, a statement to that effect and the restrictions imposed on transfer.

(4) If the corporation may levy dues, assessments, or membership or transfer fees, a statement to that effect and the conditions under which the corporation may make such a levy.

(5) If the member is required to contribute services to the corporation, a statement to that effect and the amount and nature of the services to be contributed to the corporation.

(6) Whether the membership is redeemable and the conditions under which the membership may be redeemed at the option of the corporation or the member.

(7) If the voting power or the proprietary interests of the members is unequal, a statement to that effect and the rule or rules by which the voting power and proprietary rights are to be determined.

(8) In lieu of specifying verbatim in the disclosure document the restrictions on the transfer of a membership, conditions of levy, amount and nature of services to be contributed, conditions under

which memberships are redeemable, or the rules by which the voting power and proprietary rights of members are to be determined, the disclosure document may contain a statement that such information will be provided free of charge to a member or prospective member who requests it in writing. If the disclosure document contains such a statement it shall also set forth the address of the office of the corporation and the address to which such a request is to be directed.

(c) If the articles or bylaws are amended so that any statement required by subdivision (a) on outstanding membership certificates is no longer accurate, the board may cancel the outstanding certificates and issue in their place new certificates conforming to the articles or bylaws amendments.

(d) When new membership certificates are issued in accordance with subdivision (c), 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 the certificate to be surrendered shall not be entitled to exercise any of the rights of membership until the certificate is surrendered, but such rights shall be suspended only after notice of the order is given to the holder of the certificate and only until the certificate is surrendered. The requirement to surrender outstanding certificates may be enforced by civil action.

(e) A corporation shall issue a membership certificate, receipt, or written advice of purchase to anyone purchasing a membership upon the member's first purchase of a membership of any class. No disclosure document need be provided to an existing member prior to the purchase of additional memberships if that member has previously been provided with a disclosure document which is accurate and correct as of the date of the purchase of the additional memberships.

(f) If a corporation does not issue new certificates as contemplated by subdivisions (c) and (d), and if a transferee of a membership certificate has not previously been provided with a disclosure statement which is accurate and correct as of the date of registration of the transfer, then the corporation shall provide a disclosure document to the transferee upon registration with the corporation of the transfer of the certificate.

SEC. 20. Section 12405 of the Corporations Code is amended to read:

12405. There shall be no voting by proxy.

SEC. 21. Section 12410 of the Corporations Code is amended to read:

12410. (a) Unless the articles or bylaws otherwise provide:

(1) No member may transfer a membership or any right arising therefrom; and

(2) Subject to the provisions of subdivision (b), Section 12422, and Section 12445, all rights as a member of the corporation cease upon the member's death or dissolution or the dissolution of a member

which is a business entity.

(b) The articles or bylaws may provide for, or may authorize the board to provide for, the transfer of memberships, or of memberships within any class or classes, with or without restriction or limitation, including transfer upon the death, dissolution, merger, or reorganization of a member.

(c) Where transfer rights have been provided, no restriction of them shall be binding with respect to memberships issued prior to the adoption of the restriction, unless the holders of such memberships voted in favor of the restriction.

SEC. 22. Section 12442 of the Corporations Code is amended to read:

12442. A person holding a membership as pledgee or a membership as executor, administrator, guardian, trustee, receiver or in any representative or fiduciary capacity is not personally liable for any unpaid balance of the purchase price of the membership, or for any amount owing to the corporation by the member, because the membership is so held, but the estate and funds in the hands of such fiduciary or representative are liable and the membership subject to sale therefor.

SEC. 23. Section 12451 of the Corporations Code is amended to read:

12451. Distributions (Section 12235) in any fiscal year shall not exceed 15 percent, multiplied by contributions (whether by membership fees, capital credits, or otherwise) to capital.

SEC. 24. Section 12461 of the Corporations Code is amended to read:

12461. (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote thereat; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting. Subject to subdivision (f), and subdivision (b) of Section 12462, such notice shall state the place, date and time of the meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time the notice is given, intends to present for action by the members, but, except as provided in subdivision (b) of Section 12462, any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is given to members.

(b) Notice of a members' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to a member at the address of such

member appearing on the books of the corporation or given by the member to the corporation for purpose of notice; or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. An affidavit of giving of any notice or report in accordance with the provisions of this part, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the member at the address of such member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate the United States Postal Service is unable to deliver the notice or report to the member at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members.

(c) Upon request in writing to the chairman of the board, president, vice president or secretary by any person (other than the board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote and the form of notice.

(d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

(e) The transactions of any meeting of members however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present, and if, either before or after the meeting, each of the persons entitled to vote, not present in person, signs a written waiver of notice or a consent to the holding of the meeting or an approval

of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).

(f) Any approval of the members required under Section 12362, 12364, 12373, 12502 or 12658 other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) A court may find that notice not given in conformity with this section is still valid, if it was given in a fair and reasonable manner.

(h) Subject to the provisions of subdivision (i), and unless prohibited by the articles or bylaws, prior to any regular or special meeting of members, the board may authorize distribution of a written ballot to every member entitled to vote at the meeting. Such ballot shall set forth the action proposed to be taken at the meeting, shall provide an opportunity to specify approval or disapproval of the proposed action, and shall state that unless revoked by the member voting in person at the meeting, the ballot will be counted if received by the corporation on or before the time of the meeting with respect to which it was sent. If ballots are so distributed with respect to a meeting, the number of members voting at the meeting by unrevoked written ballots shall be deemed present at the meeting for purposes of determining the existence of a quorum pursuant to subdivision (a) of Section 12462 but only with respect to the proposed action referred to in the ballots. These ballots shall be distributed in a manner consistent with the requirements of subdivision (b) and Section 12464.

(i) Unless prohibited by the articles or bylaws, written ballots may be distributed in a manner contemplated by subdivision (h) with respect to the election of directors, except that no ballots may be so distributed with respect to the election of directors if cumulative voting is permitted pursuant to Section 12484.

SEC. 25. Section 12462 of the Corporations Code is amended to read:

12462. (a) The lesser of 250 members or members representing 5 percent of the voting power, 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 12224). 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 corporation is authorized 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 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 12461.

(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 in person, but no other business may be transacted, except as provided in subdivision (c).

SEC. 26. Section 12463 of the Corporations Code is amended to read:

12463. (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 12461 and Section 12464. 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 12484. When directors are to be elected by written ballot and the articles or bylaws prescribe a nomination procedure, the procedure may provide for a date for the close of nominations prior to printing and distributing of the written ballots.

(f) The secretary shall cause a vote to be taken by written ballot upon any action or recommendation proposed in writing by 20 percent of the members of the corporation.

SEC. 27. Section 12504 of the Corporations Code is amended to read:

12504. (a) A corporation may amend its articles to change its status to that of a public benefit corporation, a mutual benefit corporation, a religious corporation or a business corporation by complying with the provisions of this section and the other sections of this chapter.

(b) Unless the corporation has no members, an amendment to change its status to a public benefit corporation, a mutual benefit association, or religious corporation shall: (1) be approved by the members (Section 12224), and the fairness of the amendment to the members shall be approved by the Commissioner of Corporations pursuant to Section 25142; or (2) be approved by 100 percent of the voting power.

(c) Amended articles authorized by this section shall include the provisions which would have been required (other than the name of the initial agent for service of process if a statement has been filed pursuant to Section 12570), and may in addition only include those provisions which would have been permitted, in original articles filed by the type of corporation (public benefit, religious or business) into which the corporation is changing its status.

(d) At the time of filing a certificate of amendment to change status to a public benefit corporation, a corporation shall furnish an additional copy of the certificate of amendment to the Secretary of State who shall forward that copy to the Attorney General.

SEC. 28. Section 12580 of the Corporations Code is amended to read:

12580. If any record subject to inspection pursuant to this chapter is not maintained in written form, a request for inspection is not complied with unless and until the corporation at its expense makes such record available in written form. For purposes of this chapter, "written" or "in writing" includes cathode ray tube and similar electronic communications methods.

SEC. 29. Section 12592 of the Corporations Code is amended to read:

12592. (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 12591, 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).

(c) Transactions approved by the members of a corporation, under subdivision (a) of Section 12373, are not covered transactions. For the purpose of subdivision (b), neither a mere common directorship nor a member-patron relationship on terms available to all members constitutes 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 one thousand dollars ($1,000), 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 one thousand dollars ($1,000).

(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 loans, guaranties, indemnifications, or advances aggregating more than one thousand dollars ($1,000) paid or made during the fiscal year to any officer or director of the corporation pursuant to Section 12377; provided that no such report need be made in the case of a loan, guaranty, or indemnification approved by the members under paragraph (2) of subdivision (e) of Section 12377 or a loan or guaranty not subject to the provisions of subdivision (a) of Section 12375.

SEC. 30. Section 12608 of the Corporations Code is amended to read:

12608. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be used by any person for any purpose not reasonably related to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation; or

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation; or

(3) Used for any commercial purpose or purpose in competition with the corporation; or

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of said violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list or any part thereof.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of all the members' names and addresses.

SEC. 31. Section 12631 of the Corporations Code is amended to read:

12631. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed.

(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 approval of a majority of all members (Section 12223) 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 12630, the certificate shall also set forth the circumstances showing the corporation to be within one of the

categories described in such subdivision.

SEC. 32. Section 25100 of the Corporations Code, as amended by Chapter 18 of the Statutes of 1983, is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any person engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when the commissioner finds that such qualification is not necessary or

appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit-sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange shall be made by the commissioner upon the written request of the exchange if the commissioner finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for a reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than

three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may in the commissioner's discretion 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 Section 1280.7 of the Insurance Code. Upon a proper showing a

permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable

salary, received from such corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

CHAPTER 793

An act to amend Sections 850, 1381.5, 1549.2, 1550.1, 1551.1, 1551.2, 1552.1, 1553.1, 1554.2, and 1555.1 of, to amend and renumber Section 1555.2 of, and to add Sections 1555.2 and 11177.1 to, the Penal Code, relating to extradition.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 850 of the Penal Code is amended to read:

850. (a) A telegraphic copy of a warrant or an abstract of a warrant may be sent by telegraph, teletype, or any other electronic devices, to one or more peace officers, and such copy or abstract is as effectual in the hands of any officer, and he shall proceed in the same manner under it, as though he held the original warrant issued by a magistrate or the issuing authority or agency.

(b) Except as otherwise provided in Section 1549.2 relating to

Governor's warrants of extradition, an abstract of the warrant as herein referred to shall contain the following information: the warrant number, the charge, the court or agency of issuance, the subject's name, address and description, the bail, the name of the issuing magistrate or authority, and if the offense charged is a misdemeanor, whether the warrant has been certified for night service.

(c) When the subject of a written or telegraphic warrant or abstract of warrant is in custody on another charge, the custodial officer shall, immediately upon receipt of information as to the existence of any such warrant or abstract, obtain and deliver a written copy of the warrant or abstract to the subject and shall inform him of his rights under Section 1381, where applicable, to request a speedy trial and under Section 858.7 relating to Vehicle Code violations.

SEC. 1.1. Section 1381.5 of the Penal Code is amended to read:

1381.5. Whenever a defendant has been convicted of a crime and has entered upon a term of imprisonment therefor in a federal correctional institution located in this state, and at the time of entry upon such term of imprisonment or at any time during such term of imprisonment there is pending in any court of this state any criminal indictment, information, complaint, or any criminal proceeding wherein the defendant remains to be sentenced the district attorney of the county in which such matters are pending, upon receiving from such defendant a request that he be brought to trial or for sentencing, shall promptly inquire of the warden or other head of the federal correctional institution in which such defendant is confined whether and when such defendant can be released for trial or for sentencing. If an assent from authorized federal authorities for release of the defendant for trial or sentencing is received by the district attorney he shall bring him to trial or sentencing within 90 days after receipt of such assent, unless the federal authorities specify a date of release after 90 days, in which event the district attorney shall bring the prisoner to trial or sentencing at such specified time, or unless the defendant requests, in open court, and receives, or, in open court, consents to, a continuance, in which event he may be brought to trial or sentencing within 90 days from such request or consent.

If a defendant is not brought to trial or for sentencing as provided by this section, the court in which the action is pending shall, on motion or suggestion of the district attorney, or representative of the United States, or the defendant or his counsel, dismiss the action.

SEC. 1.2. Section 1549.2 of the Penal Code is amended to read:

1549.2. If a demand conforms to the provisions of this chapter, the Governor or agent authorized in writing by the Governor whose authorization has been filed with the Secretary of State shall sign a warrant of arrest, which shall be sealed with the State Seal, and shall be directed to any peace officer or other person whom he may entrust with the execution thereof. The warrant must substantially

recite the facts necessary to the validity of its issuance. The provisions of Section 850 shall be applicable to such warrant, except that it shall not be necessary to include a warrant number, address, or description of the subject, provided that a complaint under Section 1551 is then pending against the subject.

SEC. 2. Section 1550.1 of the Penal Code is amended to read:

1550.1. No person arrested upon such warrant shall be delivered over to the agent of the executive authority demanding him unless he is first taken forthwith before a magistrate, who shall inform him of the demand made for his surrender, and of the crime with which he is charged, and that he has the right to demand and procure counsel. If the accused or his counsel desires to test the legality of the arrest, the magistrate shall remand the accused to custody, and fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. If the writ is denied, and probable cause appears for an application for a writ of habeas corpus to another court, or justice or judge thereof, the order denying the writ shall remand the accused to custody, and fix a reasonable time within which the accused may again apply for a writ of habeas corpus. When an application is made for a writ of habeas corpus as contemplated by this section, a copy of the application shall be served as provided in Section 1475, upon the district attorney of the county in which the accused is in custody, and upon the agent of the demanding state. A warrant issued in accordance with the provisions of Section 1549.2 shall be presumed to be valid, and unless a court finds that the person in custody is not the same person named in the warrant, or that the person is not a fugitive from justice, or otherwise subject to extradition under Section 1549.1, or that there is no criminal charge or criminal proceeding pending against the person in the demanding state, or that the documents are not on their face in order, the person named in the warrant shall be held in custody at all times, and shall not be eligible for release on bail.

SEC. 3. Section 1551.1 of the Penal Code is amended to read:

1551.1. The arrest of a person may also be lawfully made by any peace officer, without a warrant, upon reasonable information that the accused stands charged in the courts of any other state with a crime punishable by death or imprisonment for a term exceeding one year, or that the person has been convicted of a crime punishable in the state of conviction by imprisonment for a term exceeding one year and thereafter escaped from confinement or violated the terms of his bail, probation or parole. When so arrested the accused must be taken before a magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section.

SEC. 4. Section 1551.2 of the Penal Code is amended to read:

1551.2. At the initial appearance of a person arrested under Section 1551 or 1551.1, he shall be informed of the reason for his arrest and of his right to demand and procure counsel. If the person denies that he is the same person charged with or convicted of a crime in

the other state, a hearing shall be held within 10 days to determine whether there is probable cause to believe that he is the same person and whether he is charged with or convicted of a crime in the other state. At the hearing, the magistrate shall accept a certified copy of an indictment found, an information, a verified complaint, a judgment or sentence, or other judicial proceedings against that person in the state in which the crime is charged or the conviction occurred, and such copy shall constitute conclusive proof of its contents. Witnesses from the other state shall not be required to be present at the hearing.

SEC. 5. Section 1552.1 of the Penal Code is amended to read:

1552.1. Unless the offense with which the prisoner is charged, is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, or it is shown that the prisoner is alleged to have escaped or violated the terms of his parole following conviction of a crime punishable in the state of conviction by imprisonment for a term exceeding one year, the magistrate may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, conditioned upon the appearance of such person before him at a time specified in such bond or undertaking, and for his surrender upon the warrant of the Governor of this state. Nothing in this section or in Section 1553 shall be deemed to prevent the immediate service of a Governor's warrant issued under Section 1549.2.

SEC. 6. Section 1553.1 of the Penal Code is amended to read:

1553.1. (a) If a criminal prosecution has been instituted against a person charged under Section 1551 under the laws of this state and is still pending, the Governor, with the consent of the Attorney General, may surrender the person on demand of the executive authority of another state or hold him or her until he or she has been tried and discharged or convicted and served his or her sentence in this state.

(b) If a criminal prosecution has been instituted under the laws of this state against a person charged under Section 1551, the restrictions on the length of commitment contained in Sections 1552 and 1552.2 shall not be applicable during the period that the criminal prosecution is pending in this state.

SEC. 7. Section 1554.2 of the Penal Code is amended to read:

1554.2. (a) When the return to this state of a person charged with crime in this state is required, the district attorney shall present to the Governor his written application for a requisition for the return of the person charged. In such application there shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, and the state in which he is believed to be, including the location of the accused therein at the time the application is made. Such application shall certify that, in the opinion of the district attorney, the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted

to enforce a private claim.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and who has escaped from confinement or has violated the terms of his bail, probation or parole the district attorney of the county in which the offense was committed, the Board of Prison Terms, the Director of Corrections, the California Institution for Women, the Youth Authority, or the sheriff of the county from which escape from confinement was made, shall present to the Governor a written application for a requisition for the return of such person. In such application there shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape or of the violation of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of such person therein at the time application is made.

(c) The application shall be verified, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment, the information, or the verified complaint made to the magistrate stating the offense with which the accused is charged, or the judgment of conviction or the sentence. The officer or board requesting the requisition may also attach such affidavits and other documents in duplicate as are deemed proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, verified complaint, information, or judgment of conviction or sentence shall be filed in the office of the Secretary of State. The other copies of all papers shall be forwarded with the Governor's requisition.

(d) Upon receipt of an application under this section, the Governor or agent authorized in writing by the Governor whose authorization has been filed with the Secretary of State, may sign a requisition for the return of the person charged and any other document incidental to that requisition or to the return of the person charged.

SEC. 8. Section 1555.1 of the Penal Code is amended to read:

1555.1. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation or parole may waive the issuance and service of the Governor's warrant provided for in this chapter and all other procedure incidental to extradition proceedings, by subscribing in the presence of a magistrate within this state a writing which states that he or she consents to return to the demanding state; provided, however, that before such waiver shall be subscribed by such person, the magistrate shall inform him or her of his or her rights to require the issuance and service of a warrant of extradition as provided in this chapter.

If such waiver is executed, it shall forthwith be forwarded to the office of the Governor of this state, and filed therein. The magistrate shall remand the person to custody without bail, unless otherwise

stipulated by the district attorney with the concurrence of the other state, and shall direct the officer having such person in custody to deliver such person forthwith to the duly authorized agent of the demanding state, and shall deliver to such agent a copy of such waiver.

Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, provided that state consents, nor shall this procedure of waiver be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

SEC. 9. Section 1555.2 of the Penal Code is amended and renumbered to read:

1555.3. Nothing in this chapter shall be deemed to constitute a waiver by this state of its right, power or privilege to try any demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state; nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any manner whatsoever.

SEC. 10. Section 1555.2 is added to the Penal Code, to read:

1555.2. (a) If the arrested person refuses to sign a waiver of extradition under Section 1555.1, a hearing shall be held, upon application of the district attorney, to determine whether the person is alleged to have violated the terms of his release within the past five years on bail or own recognizance while charged with a crime punishable in the charging state by imprisonment for a term exceeding one year, or on probation or parole following conviction of a crime punishable in the state of conviction by imprisonment for a term exceeding one year, and whether, as a condition of that release, the person was required to waive extradition.

(b) At the hearing, the district attorney shall present a certified copy of the order from the other state conditionally releasing the person, including the condition that he was required to waive extradition together with a certified copy of the order from the other state directing the return of the person for violating the terms of his conditional release. The magistrate shall accept these certified copies as conclusive proof of their contents and shall presume the validity of the extradition waiver condition.

(c) If the magistrate finds that there is probable cause to believe that the arrested person is the same person named in the conditional release order and the order commanding his return, the magistrate shall forthwith issue an order remanding the person to custody without bail and directing the delivery of the person to duly accredited agents of the other state.

(d) Notwithstanding the provisions of subdivision (c), the district attorney may stipulate, with the concurrence of the other state, that

the arrested person may be released on bail or own recognizance pending the arrival of duly accredited agents from the other state.

(e) If the arrested person or his counsel desires to test the legality of the order issued under subdivision (c), the magistrate shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. If the writ is denied and probable cause appears for an application for a writ of habeas corpus to another court, or justice or judge thereof, the order denying the writ shall fix a reasonable time within which the accused may again apply for a writ of habeas corpus. Unless otherwise stipulated pursuant to subdivision (d), the arrested person shall remain in custody without bail.

SEC. 11. Section 11177.1 is added to the Penal Code, to read:

11177.1. (a) Before a probationer or parolee may be returned to the sending state under this compact, he shall have a right to counsel and to a hearing before a magistrate to determine whether he is in fact a probationer or parolee who was allowed to reside in this or any other state pursuant to this compact, whether his return to the sending state has been ordered, and whether there is probable cause to believe he is the same person whose return is sought. At the hearing, the magistrate shall accept certified copies of probation or parole documents showing that this compact has been invoked and that the probationer or parolee has been ordered returned to the sending state, and these documents shall constitute conclusive proof of their contents. If the magistrate concludes that the probationer or parolee is subject to the terms of this compact, an order shall be issued forthwith directing the delivery to the sending state of the probationer or parolee.

(b) If the probationer or parolee or his counsel desires to test the legality of the order issued under subdivision (a), the magistrate shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. If the writ is denied and probable cause appears for an application for a writ of habeas corpus to another court, or justice or judge thereof, the order denying the writ shall fix a reasonable time within which the accused may again apply for a writ of habeas corpus.

CHAPTER 794

An act to add Section 20616 to the Government Code, relating to public retirement systems.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 20616 is added to the Government Code, to read:

20616. Notwithstanding any other provision of law, the state or the Regents of the University of California may pay all or a portion of the normal contributions required to be paid by a state member. The payments shall be reported as employer-paid normal contributions and shall be credited to member accounts.

Nothing in this section shall be construed to limit the authority of the state to periodically increase, reduce, or eliminate the payment by the state of all or a portion of the normal contributions required to be paid by a state member, as authorized by this section.

The provisions of this section shall be subject to any applicable collective-bargaining laws.

CHAPTER 795

An act to amend Section 17761 of, and to add Section 17735 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 17761 of the Revenue and Taxation Code is amended to read:

17761. (a) In any taxable year there shall be allowed as a deduction in computing the taxable income of an estate or trust (other than a trust to which Article 2 applies), the sum of—

(1) Any amount of income for such taxable year required to be distributed currently (including any amount required to be distributed which may be paid out of income or corpus to the extent such amount is paid out of income for such taxable year); and

(2) Any other amounts properly paid or credited or required to be distributed for such taxable year;

but such deduction shall not exceed the distributable net income of the estate or trust.

(b) The amount determined under subsection (a) shall be treated as consisting of the same proportion of each class of items entering into the computation of distributable net income of the estate or trust as the total of each class bears to the total distributable net income of the estate or trust in the absence of the allocation of different classes of income under the specific terms of the governing instrument. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income shall be allocated among the items of distributable net

income in accordance with regulations prescribed by the Franchise Tax Board.

(c) No deduction shall be allowed under subsection (a) in respect of any portion of the amount allowed as a deduction under that subsection (without regard to this subsection) which is treated under subsection (b) as consisting of any item of distributable net income which is not included in the gross income of the estate or trust.

(d) In the case of an estate, no deduction shall be allowed under subdivision (a) with respect to amounts attributable and taxable to nonresident beneficiaries if the fiduciary fails to obtain a certificate as provided by Section 19262.

SEC. 2. Section 17735 is added to the Revenue and Taxation Code, to read:

17735. In the case of an estate, no deductions shall be allowed under Section 661(a) of the Internal Revenue Code with respect to amounts attributable and taxable to nonresident beneficiaries if the fiduciary fails to obtain a certificate as provided by Section 19262.

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 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.

SEC. 4. If Assembly Bill 36 is chaptered, Section 1 of this act, which amends Section 17761 of the Revenue and Taxation Code, shall not become operative and Section 2 of this act, which adds Section 17735 to the Revenue and Taxation Code, shall become operative. If Assembly Bill 36 is not chaptered, Section 1 of this bill shall become operative and Section 2 shall not become operative.

CHAPTER 796

An act to add Section 1364.12 to the Health and Safety Code, and to add Section 10176.9 to the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 1374.12 is added to the Health and Safety Code, to read:

1374.12. No health care service plan contract issued, entered into,

or renewed on or after July 1, 1984, shall be deemed to contain any provision restricting the liability of the plan with respect to expenses solely because the expenses were incurred while the member was in a state hospital, if the policy, contract, or agreement would have paid for the services but for the fact that they were provided in a state hospital. Nothing in this section shall be deemed to require a plan to pay a state hospital for covered expenses incurred by a member at a rate or charge higher than the plan would pay for such services to a hospital with which the plan has entered a contract providing for alternative rates of payment or limiting payments for services secured by members.

SEC. 2. Section 10176.9 is added to the Insurance Code, to read:

10176.9. No policy, contract, or agreement coming within the provisions of this article, issued, entered into or renewed on or after July 1, 1984, shall be deemed to contain any provision restricting the liability of the insurer or plan with respect to expenses solely because the expenses were incurred while the person insured was in a state hospital, if the policy, contract, or agreement would have paid for the services but for the fact that they were provided in a state hospital. Nothing in this section shall be deemed to require an insurer or plan to pay a state hospital for covered expenses incurred by an insured or covered individual at a rate or charge higher than the insurer or plan would pay for such services to a hospital with which the insurer or plan has entered a contract providing for alternative rates of payment or limiting payments for services secured by insureds or covered individuals.

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

In order that the provisions of this act shall achieve maximum implementation, it is necessary that it shall take effect immediately.

CHAPTER 797

An act to amend Sections 11346.1, 11346.5, 11346.53, 11346.8, 11347.3, 11349, 11349.6, 11349.7, and 11351, to amend and renumber Sections 11343.7, 11344.6, and 11346.51, to repeal Sections 11343.2, 11343.3, 11344.3, 11344.5, 11346.13, 11346.52, 11347.2, and 11349.9, and to repeal and add Sections 11343.1, 11344, and 11344.1, of the Government Code, relating to administrative regulations.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 11343.1 of the Government Code is repealed.

SEC. 2. Section 11343.1 is added to the Government Code, to read:

11343.1. (a) All regulations transmitted to the Office of Administrative Law for filing with the Secretary of State shall conform to the style prescribed by the office.

(b) All regulations shall include a notation indicating a reference to the authority under which the regulation is being adopted and the reference to the specific statute or other provision being implemented, interpreted, or made specific.

(c) Regulations approved by the office shall bear an endorsement by the office affixed to the certified copy which is filed with the Secretary of State.

SEC. 3. Section 11343.2 of the Government Code is repealed.

SEC. 4. Section 11343.3 of the Government Code is repealed.

SEC. 5. Section 11343.7 of the Government Code is amended and renumbered to read:

11344.6. The publication of a regulation in the California Administrative Code or California Administrative Code Supplement raises a rebuttable presumption that the text of the regulation as so published is the text of the regulation adopted.

The courts shall take judicial notice of the contents of each regulation which is printed or which is incorporated by appropriate reference into the California Administrative Code.

The courts shall also take judicial notice of the repeal of a regulation as published in the Regulations Summary of the California Administrative Notice Register.

SEC. 6. Section 11344 of the Government Code is repealed.

SEC. 7. Section 11344 is added to the Government Code, to read:

11344. The office shall do all of the following:

(a) Provide for the publication of the periodic compilation of adoption, amendment, or repeal of regulations, which shall be known as the California Administrative Code.

(b) Provide for periodic updating of the California Administrative Code by publishing a weekly register containing amendments to the code as filed with the Secretary of State. This publication shall be known as the California Administrative Code Supplement.

(c) Provide for the publication dates and manner and form in which regulations shall be printed and distributed and insure that regulations are available in printed form at the earliest practicable date after filing with the Secretary of State.

(d) Insure that each regulation is printed together with a reference to the statutory authority pursuant to which it was enacted and the specific statute or other provision of law which the regulation is implementing, interpreting, or making specific.

(e) Provide for the incorporation by appropriate reference of regulations which are impractical to include into the Administrative Code.

SEC. 8. Section 11344.1 of the Government Code is repealed.

SEC. 9. Section 11344.1 is added to the Government Code, to read:

11344.1. The office shall do all of the following:

(a) Provide for the publication of the California Administrative Notice Register, which shall be an official publication of the State of California and which shall contain:

(1) Notices of proposed action prepared by regulatory agencies, subject to the notice requirements of this chapter, and which have been approved by the office.

(2) A summary of regulations filed with the Secretary of State in the previous week.

(3) The letters of disapproval of regulations submitted for review to the office.

(4) The Governor's action in reviewing the disapprovals of the office and the reasons therefor.

(5) The orders of repeal of emergency regulations issued by the office and the reasons therefor.

(6) The determinations of repeal of regulations issued by the office as a result of the review of existing regulations.

(7) The Governor's action overruling the determination to repeal existing regulations and the reasons therefor.

(8) Such other information as is appropriate to inform or notify the public of regulatory matters and events.

(b) Establish the publication dates and manner and form in which the California Administrative Notice Register shall be prepared and published and insure that it is published and distributed in a timely manner to each standing committee of each house of the Legislature, to each Member of the Legislature, and to all subscribers.

SEC. 10. Section 11344.3 of the Government Code is repealed.

SEC. 11. Section 11344.5 of the Government Code is repealed.

SEC. 12. Section 11344.6 of the Government Code is amended and renumbered to read:

11342.4. The office shall adopt, amend, or repeal regulations for the purpose of carrying out the provisions of this chapter.

SEC. 13. 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 1227.1, 5500.5, or 7150.1 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 paragraphs (2) to (6), inclusive, of subdivision (a) of Section 11346.5 and a description of the specific facts showing the need for immediate action. The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.

The statement and the regulation or order of repeal shall be filed immediately with the Office of Administrative Law. The statement or order of repeal shall be published in the next issue of the California Administrative Notice Register, which shall be delivered to each Member of the Legislature and to each standing committee. The regulation shall be published in the next issue of the California Administrative Code Supplement.

(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 are submitted to the State Building Standards Commission, and are 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, completed the regulation adoption process by formally adopting the emergency regulation or any amendments thereto, pursuant to the provisions of this chapter. The adopting agency, prior to the expiration of the 120-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, the rulemaking file, and 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 originally adopted as an emergency regulation, or an emergency regulation substantially equivalent thereto which is readopted as an emergency regulation, shall not be filed with the Secretary of State as an emergency regulation except with the express prior approval of the Director of the Office of Administrative Law.

SEC. 14. Section 11346.13 of the Government Code is repealed.

SEC. 15. Section 11346.5 of the Government Code is amended to read:

11346.5. (a) The notice of proposed adoption, amendment, or repeal of a regulation shall include:

(1) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation.

(2) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law which are being implemented, interpreted, or made specific.

(3) An informative digest containing a concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and the effect of the proposed action. The informative digest shall be drafted in a format similar to the Legislative Counsel's digest on legislative bills. If the proposed action differs substantially from an existing comparable federal regulation or statute, the informative digest shall also include a brief description of the significant differences and the full citation of the federal regulations or statutes.

(4) Such other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Section 2231 of the Revenue and Taxation Code.

(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance pursuant to Section 11346.51, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

For purposes of this section, "cost or savings" means additional costs or savings, both direct and indirect, which a public agency necessarily incurs in reasonable compliance with regulations.

(7) The name and telephone number of the agency officer to whom inquiries concerning the proposed administrative action may be directed.

(8) The date by which comments submitted in writing must be

received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

(9) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

(10) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

(11) A statement indicating that the full text of a regulation changed pursuant to Section 11346.8 will be available for at least 15 days prior to the date on which the agency adopts, amends, or repeals the resulting regulation.

(b) The agency officer designated in paragraph (7) of subdivision (a) shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Administrative Code. The officer shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action.

(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 of the notice content or the summary or cost estimates if there has been substantial compliance with those requirements.

SEC. 16. Section 11346.51 of the Government Code is amended and renumbered to read:

11346.55. (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 paragraph (7) of subdivision (a) 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. 17. Section 11346.52 of the Government Code is repealed.

SEC. 18. Section 11346.53 of the Government Code is amended to read:

11346.53. (a) If a state agency in proposing to adopt or amend any administrative regulation, determines that such action may have a significant adverse economic impact on small business, it shall include the following information in the notice of proposed action:

(1) Identification of the types of small businesses that would be affected.

(2) A description of the projected reporting, recordkeeping and other compliance requirements that would result from the proposed action.

(3) The following statement: "The (name of agency) finds that the (adoption/amendment) of this regulation may have a significant adverse economic impact on small businesses. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on small business and invites you to submit such proposals. Submissions may include the following considerations:

"(A) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to small businesses.

"(B) Consolidation or simplification of compliance and reporting requirements for small businesses.

"(C) The use of performance standards rather than design standards.

"(D) Exemption or partial exemption from the regulatory requirements for small businesses."

(b) If a state agency in adopting or amending any administrative regulation determines that such action will not have a significant adverse economic impact on small business, it shall make such a declaration in the notice of proposed action.

(c) An agency's determination and declaration that a proposed regulation may have or will not have a significant, adverse impact on small businesses shall not be grounds for the office to refuse to publish the notice of proposed action.

(d) A state agency shall also include in the notice of proposed action a statement of the potential cost impact of the proposed action on private persons or businesses directly affected, other than small businesses as defined in subdivision (e) of Section 11342, as considered by the agency during the regulatory development process. If the cost impact of the action is expected to be insignificant, or was not considered in the development process, the agency shall so indicate.

For purposes of this subdivision "cost impact" means the reasonable range of costs, or a description of the type and extent of costs, direct or indirect, which a representative private person or business necessarily incurs in reasonable compliance with the proposed action.

SEC. 19. Section 11346.8 of the Government Code is amended to read:

11346.8. (a) If a public hearing is held, statements, arguments, or contentions, either oral or in writing, or both, shall be permitted. If a public hearing is not scheduled, the state agency shall, consistent

with Section 11346.4, afford any interested person or his or her duly authorized representative, the opportunity to present statements, arguments or contentions in writing. In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

(b) In any hearing under this section the state agency or its duly authorized representative shall have authority to administer oaths or affirmations. An agency may continue or postpone such hearing from time to time to such time and at such place as it shall determine.

(c) No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to Section 11346.5, unless the change is (1) nonsubstantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. If such a sufficiently related change is made, the full text of the resulting adoption, amendment, or repeal, with the change clearly indicated, shall be made available to the public for at least 15 days before the agency adopts, amends, or repeals the resulting regulation. Any written comments received regarding the change must be responded to in the final statement of reasons required by subdivision (b) of Section 11346.7.

(d) No state agency shall add any material to the record of the rulemaking proceeding after the close of the public hearing or comment period, unless adequate provision is made for public comment on that matter.

SEC. 20. Section 11347.2 of the Government Code is repealed.

SEC. 21. Section 11347.3 of the Government Code is amended to read:

11347.3. (a) Every agency shall maintain a file of each rulemaking which shall be deemed to be the record for that rulemaking proceeding. The file shall include:

(1) Copies of any petitions received from interested persons proposing the adoption, amendment or repeal of the regulation.

(2) All published notices of proposed adoption, amendment, or repeal of the regulation, and an updated informative digest, the initial statement of reasons, and the final statement of reasons.

(3) The determination, together with the supporting data required by paragraph (5) of subdivision (a) of Section 11346.5.

(4) The estimate, together with the supporting data and calculations, required by paragraph (6) of subdivision (a) of Section 11346.5 and Section 11346.51.

(5) All data and other factual information, any studies or reports, and written comments submitted to the agency in connection with

the adoption, amendment, or repeal of the regulation.

(6) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation, including any cost impact estimates as required by Section 11346.53.

(7) A transcript, recording or minutes of any public hearing connected with the adoption, amendment or repeal of the regulation.

(8) The date on which the agency made available to the public for 15 days prior to the adoption, amendment, or repeal of the regulation the full text as required by subdivision (c) of Section 11346.8 if the agency made changes to the regulation noticed to the public.

(9) The text of regulations as originally proposed and the modified text of regulations, if any, that were made available to the public prior to adoption.

(10) Any other information, statement, report or data which the agency is required by law to consider or prepare in connection with the adoption, amendment or repeal of a regulation.

(b) Every agency shall submit to the office with the adopted regulation, the rulemaking file or a complete copy of the rulemaking file. The rulemaking file or copy shall be accompanied by an index or table of contents which identifies each item contained in the rulemaking file. The index or table of contents shall include a sworn statement by the agency official who has compiled the rulemaking file, specifying the date upon which the record was closed, and that the file and the copy, if submitted, is complete.

(c) The file shall be available to the public, and to the courts in connection with the review of the regulation.

SEC. 22. Section 11349 of the Government Code is amended to read:

11349. The following definitions shall govern the interpretation of this chapter:

(a) "Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation.

(b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation.

(c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

(d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

(e) "Reference" means the statute, court decision or other provision of law which the agency implements, interprets or makes specific by adopting, amending or repealing a regulation.

(f) "Nonduplication" means that a regulation does not serve the same purpose as another state or federal statute or regulation. This standard requires that an agency proposing to adopt any new regulation must identify any other state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

SEC. 23. 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 submittal to the office. 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, or if it determines the agency failed to comply with the provisions of this chapter. The office shall publish its order and the reasons therefor in the California Administrative Notice Register. 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, or if it determines that the agency failed to comply with the provisions of this chapter.

SEC. 24. 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 as of June 30, 1980, 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 California Administrative 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, in addition, make periodic recommendations directly to the Legislature for the repeal or amendment of statutory provisions that affect the operations of regulatory agencies.

(g) Within six months following the date when a regulation has been reviewed by a state agency and a Statement of Review Completion has been submitted to the office 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.

If a state agency reports in a Statement of Review Completion that it will amend or repeal a regulation, the amendment or repeal shall be completed and submitted to the office within six months of the submission of the Statement of Review Completion, unless that period is extended by the office upon a showing of good cause.

If a state agency, in conjunction with its review of existing regulations pursuant to this section, submits a proposed adoption, amendment or repeal of a regulation to the office, the time for approval or disapproval of that proposed adoption, amendment, or repeal shall also be six months from the date it is submitted to the office.

(h) In the event it determines that an existing regulation does not meet the standards set forth in Section 11349.1, or that an agency has failed to meet the provisions of this chapter, 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, or the reasons for its determination that the agency failed to meet the provisions of this chapter. The reasons for its determination shall be made available to the public. The office shall also publish its order and the reasons therefor in the California Administrative Notice Register. 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 and consider all information available to it, including information submitted by the public as well as 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. During the period of review and consideration, the information available to the office relating to each regulation for which the office has issued an order to show cause shall be made available to the public. The office shall notify the adopting agency within two working days of the receipt of information submitted by the public regarding a regulation for which an order to show cause has been issued. 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 office has delivered the statement specifying the reasons for its determination to repeal, as required by subdivision (j), may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect. Notice of the Governor's action and the reasons therefor shall be published in the California Administrative Notice Register.

The Governor shall transmit to the Rules Committees of both houses of the Legislature a statement of reasons for overruling the decision of the office, plus any other information that may be requested by either of the Rules Committees.

(*l*) In the event that the office orders the repeal of a regulation, it shall publish the order and the reasons therefor in the California Administrative Notice Register.

(m) Notwithstanding any other subdivision of this section, the Office of Administrative Law, at the request of any standing, select, or joint committee of the Legislature, shall initiate a priority review of any regulation, group of regulations, or series of regulations which the committee believes does not meet the standards set forth in Section 11349.1. A review pursuant to this subdivision may be made at any time and shall be made without regard to the master plan review schedule in subdivision (d), or to the sequence for reviewing individual titles of the California Administrative Code as required by Section 11349.8.

The Office of Administrative Law shall notify interested persons and shall publish in the California Administrative Notice Register that a priority review has been requested, shall consider the written comments submitted by interested persons, and shall complete each priority review made pursuant to this subdivision within 90 calendar days of the receipt of the committee's written request. During the period of any priority review made pursuant to this subdivision, all information available to the office relating to the priority review shall be made available to the public. In the event that the Office of Administrative Law determines that a regulation does not meet the standards set forth in Section 11349.1, it shall order the adopting agency to show cause why the regulation should not be repealed and shall proceed to seek repeal of the regulation as provided by this section.

(n) The power of a court to invalidate a regulation shall not be altered or barred by the fact that the office has not ordered the repeal of a regulation pursuant to this section. The procedure adopted by this section allowing the office to order the repeal of a regulation shall not be considered an exhaustible administrative remedy.

SEC. 25. Section 11349.9 of the Government Code is repealed.

SEC. 26. Section 11351 of the Government Code is amended to read:

11351. (a) Except as provided in subdivision (b), Article 5 (commencing with Section 11346), Article 6 (commencing with Section 11349), and Article 7 (commencing with Section 11350) of this chapter shall not apply to the Public Utilities Commission, the Division of Industrial Accidents, or the Workers' Compensation Appeals Board, and Article 3 (commencing with Section 11343) and Article 4 (commencing with Section 11344) of this chapter shall apply only to the rules of procedure of said state agencies.

(b) The Public Utilities Commission, the Division of Industrial Accidents and the Workers' Compensation Appeals Board shall comply with the provisions of subdivision (e) of Section 11346.4 with respect to regulations which are required to be filed with the Secretary of State pursuant to Section 11343.

CHAPTER 798

An act to amend Sections 25180 and 25191 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 25180 of the Health and Safety Code is amended to read:

25180. (a) The standards and regulations adopted by the department pursuant to Section 25150 shall be enforced by the department or any local health officer or any local public officer as designated by the director.

(b) Any traffic officer, as defined by Section 625 of the Vehicle Code, or by a peace officer, as defined by Section 830.1 of the Penal Code, in addition to the department and local health officers, as specified in subdivision (a) may enforce Section 25160, subdivisions (a) and (d) of Section 25163, and subdivision (b) of Section 25169.1.

SEC. 2. Section 25191 of the Health and Safety Code is amended to read:

25191. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment. If the conviction is for a violation committed after a first conviction of the person under this section, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not to exceed one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when such information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this chapter in response to a real and substantial danger.

(5) Engages in the transportation of hazardous waste in violation of subdivisions (a) or (d) of Section 25163.

(b) The penalties imposed by subdivision (a) on any person who commits any of the acts specified in paragraph (5) of that subdivision shall be imposed only on the owner of the vehicle in which the

hazardous wastes are unlawfully transported, carried, or handled or on the person who authorizes the transporting, carrying, or handling, and shall not be imposed on the driver of the vehicle, unless the driver is also the owner of the vehicle or authorized the transporting, carrying, or handling.

(c) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) for each day of violation, or by imprisonment in the county jail for not to exceed six months, or both the fine and imprisonment:

(1) Transports, or authorizes the transportation of, hazardous waste in a truck, trailer, semitrailer, vacuum tank, cargo tank, or container which does not contain a current certificate of compliance, as specified in Section 25168.3.

(2) Carries or handles, or authorizes the carrying or handling of, hazardous waste without having in the driver's possession the list specified in Section 25160.

Whenever any person is prosecuted for a violation pursuant to this subdivision the court may, on the request of the person, take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, a codefendant or codefendants. If the codefendant or codefendants are held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

(d) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment. If the conviction is for a violation committed after a first conviction of the person under this section, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not to exceed one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment.

(1) Transports any hazardous waste to a facility which does not have a permit from the department issued pursuant to this chapter, or to any point which is not authorized according to this chapter.

(2) Treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act

creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 799

An act to add Article 8.5 (commencing with Section 1336) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Article 8.5 (commencing with Section 1336) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 8.5. Long-Term Care Facility Advance Notification Requirements

1336. Notwithstanding any other provisions of law, a long-term health care facility shall give written notice to the affected patients or to the guardians of the affected patients at least 30 days prior to any change in the status of the license or in the operation of the facility resulting in the inability of the facility to care for its patients.

If patients' placement problems are encountered which cannot be satisfactorily resolved within this 30-day period, the State Department of Health Services and the health facility shall agree on an extension which shall not exceed an additional 60 days.

The facility shall provide an appropriate team of professional staff to assist patients and families in obtaining alternative placement.

This section shall not apply to actions initiated by the department to suspend or revoke the license.

1337. (a) After notifying its affected patients, the facility shall, in response to inquiries made by prospective patients or their representatives, include notification of the change in the status of the license or the operation of the facility.

(b) The facility shall also give oral notification to the office of the State Long-Term Care Ombudsman of the change in the status of the license or the operation of the facility at least 30 days prior to any change in the status of the license or the operation of the facility.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 800

An act to add Section 39619.3 to the Education Code, relating to school districts and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 39619.3 is added to the Education Code, to read:

39619.3. Notwithstanding any limitations imposed as a result of actions taken by the State Allocation Board pursuant to Section 39363, a school district shall be eligible to receive an apportionment pursuant to subdivision (b) of Section 39619, if it meets all of the following criteria:

(a) There are excess revenues which resulted from the sale of surplus sites upon which there was no encumbrance to the board.

(b) The Superintendent of Public Instruction has verified all of the following:

(1) The district has a fiscal emergency in fiscal year 1982–83, and is expected to have one in the 1983–84 fiscal year.

(2) The fiscal emergency was caused primarily by required expenditures.

(3) The district has taken reasonable steps to address the fiscal emergency.

(c) The base revenue limit of the district does not exceed the limit established by subdivision (e) of Section 42238.

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 provide school districts who are faced with a verified fiscal emergency with necessary operating funds at the earliest possible date, thus avoiding potential school closures, it it necessary that this act take effect immediately.

CHAPTER 801

An act to amend Sections 19570, 19590, 19592, and 19593 of, and to add Sections 19590.5, 19592.2, and 19592.5 to, the Government Code, relating to state civil service employees.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 19570 of the Government Code is amended to read:

19570. As used in this article "adverse action" means dismissal, demotion, suspension, or other disciplinary action. This article shall not apply to any adverse action affecting managerial employees subject to Article 4 (commencing with Section 19590), except as provided in Sections 19590.5, 19592, and 19592.2.

SEC. 2. Section 19590 of the Government Code is amended to read:

19590. Notwithstanding the provisions of Article 3 (commencing with Section 19570), persons who have been designated as managerial employees under Section 3513 from the beginning of their current appointment, but whose positions are not in the career executive category shall hold their appointments subject to the following adverse action process:

(a) The employee may be demoted, dismissed, or otherwise disciplined under the provisions of this section for any of the causes specified in Section 19572, but shall not be disciplined for any cause constituting prohibited discrimination as set forth in Sections 19700 to 19703, inclusive.

(b) At least 20 days prior to the effective date of the disciplinary action, the appointing power shall give the employee written notice of the proposed action setting forth the reasons for the action, the effective date of the action, the right of the employee to answer the notice orally or in writing within 10 days of receipt of notice, and the employee's appeal rights. Within 15 days after the effective date of the disciplinary action, a copy thereof shall be filed with the board.

(c) The board, at the written request of a disciplined managerial employee filed within 30 days of the employee's receipt of the notice of the disciplinary action, may investigate with or without a hearing the reasons for the action.

If the adverse action taken against the employee was a disciplinary action other than demotion or dismissal, the board shall, after the investigation, affirm, reduce or overturn the action of the appointing power.

If the adverse action taken against the employee was a demotion or dismissal from state civil service, the board shall, after the investigation and subject to the provisions of Section 19592.5, affirm

or reduce the action, restore the employee to the position from which he or she was demoted or reinstate the employee to the position from which he or she was dismissed or to a position to which he or she could have transferred.

The decision of the board to modify the action of the appointing power pursuant to this subdivision shall be taken only if the board determines, after hearing, that there is no substantial evidence to support the reason or reasons for disciplinary action, or that the disciplinary action was made in fraud or bad faith. At the hearing the disciplined managerial employee shall have the burden of proof. Subject to rebuttal by the employee, it shall be presumed that the action was free from fraud and bad faith and that the statement of reasons in the notice of disciplinary action is true.

SEC. 3. Section 19590.5 is added to the Government Code, to read:

19590.5. Notwithstanding the provisions of Section 19590, a managerial employee who, without a subsequent break in service due to a permanent separation, has previously served with permanent status in a nonmanagerial state civil service position may be dismissed from state service only as provided in Article 3 (commencing with Section 19570). Similarly, a managerial employee who was hired from outside of state civil service pursuant to Section 18930 and who has served in a state civil service managerial position for a combined period of at least 12 months may be dismissed from state service only as provided in Article 3 (commencing with Section 19570). The provisions of Section 19590 shall apply, however, to a dismissal action against a managerial employee who was hired from outside state civil service pursuant to Section 18930 during the first year of his or her service in a state civil service managerial position or positions.

SEC. 4. Section 19592 of the Government Code is amended to read:

19592. When action is taken under this article, the provisions of this article and related board rule shall constitute the entire disciplinary action and review process, except that the provisions of Sections 19574.1, 19583.5, and 19584 shall also apply in a manner consistent with the provisions of this article.

SEC. 5. Section 19592.2 is added to the Government Code, to read:

19592.2. Pending investigation by the appointing power of accusations against an employee involving any of the causes for discipline specified in Section 19572, the appointing power may order the employee on leave of absence for not to exceed 15 days. The leave may be terminated by the appointing power by giving 48 hours' notice in writing to the employee.

If adverse action is not taken on or before the date the leave is terminated, the leave shall be with pay.

If adverse action is taken on or before the date the leave is terminated, the adverse action may be taken retroactive to any date

on or after the date the employee went on leave. The adverse action, under these circumstances, shall be valid if written notice is served upon the employee and filed with the board not later than 15 calendar days after the employee is notified of the adverse action.

SEC. 6. Section 19592.5 is added to the Government Code, to read:

19592.5. Notwithstanding any other provisions of law, when a demotion action is taken against a managerial employee who was hired from outside of state civil service pursuant to Section 18930, he or she may only transfer, reinstate, be reduced in class or demoted to positions within the managerial classes during the first year of his or her service in a state civil service managerial position or positions.

SEC. 7. Section 19593 of the Government Code is amended to read:

19593. This article shall not apply to managerial appointments that took effect prior to January 1, 1984, or in subsequent appointments, except that it shall apply when the provisions of this part and board rule would have required the employee to serve a new probationary period in a subsequent appointment. Where service of a new probationary period would have been discretionary on the part of the appointing power, the appointing power may either apply the provisions of this article to the new appointment, or require the employee to serve the probationary period previously prescribed for the class by the State Personnel Board, or appoint the employee with no new probationary period.

CHAPTER 802

An act to amend Sections 22050, 24050, and 26050 of, and to add Section 31953 to, the Financial Code, relating to business and industrial development corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 22050 of the Financial Code is amended to read:

22050. This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

SEC. 1.5. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing

business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

SEC. 2. Section 24050 of the Financial Code is amended to read:

24050. This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

SEC. 3. Section 26050 of the Financial Code is amended to read:

26050. This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trusts companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

SEC. 4. Section 31953 is added to the Financial Code, to read:

31953. This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the State Constitution. The restrictions upon rates of interest contained in Section 1 of Article XV of the State Constitution shall not apply to any loans made by, or forbearances of, any business and industrial development corporation licensed pursuant to this division. This section shall apply retroactively to any such loans or forbearances.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 1019 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 22050 of the Financial Code, and this bill is chaptered after Assembly Bill 1019, that Section 22050 of the Financial Code, as amended by Section 6 of Assembly Bill 1019, be further amended on the effective date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 22050 proposed by this bill. Therefore, if this bill and Assembly Bill 1019 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 1019 is chaptered before this bill and amends Section 22050, Section 1.5 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

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:

The exemption provided by this act would expedite the sale of loans in order to make new small business loans. Existing usury limits

effectively establish a firm ceiling on interest rates that can be charged, eliminating in effect variable rate loans. Business and industrial development corporations are currently only making variable rate loans which are the only type of loans currently being purchased by private investors in the secondary market for Small Business Administration loans. It is therefore necessary that this act take effect immediately.

CHAPTER 803

An act to amend Section 23075 of the Business and Professions Code, to amend Section 102 of the Food and Agricultural Code, to amend Sections 3541, 8901, 8901.5, 11034, 11550, 11551, 11552, 11552.5, 11553, 11554, 11555, 11556, 11560, 11563.1, 11563.7, 12000, 12086, 12500, 15321, 15401, 66740, and 68500.5 of, to add Sections 11551.5, 11553.5, 11563.8, 11563.9, and 11564 to, and to repeal Sections 11550.5, 11552.6, 11553.4, 11554.1, 11560.1, 11562.5, 11563.3, and 11563.6 of, the Government Code, to amend Section 39512 of the Health and Safety Code, to amend Sections 112, 138.1, and 1147 of the Labor Code, to amend Section 2808 of the Penal Code, to amend Section 25207 of the Public Resources Code, and to amend Section 40663 of the Vehicle Code, relating to public officers, and making an appropriation therefor.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 23075 of the Business and Professions Code is amended to read:

23075. (a) There is in the State Government an Alcoholic Beverage Control Appeals Board the members of which shall be appointed and shall serve as provided in Section 22 of Article XX of the Constitution.

(b) No member of the board shall receive a salary but shall receive a per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of his or her duties.

SEC. 1.5. Section 102 of the Food and Agricultural Code, as amended by Chapter 142 of the Statutes of 1983, is amended to read:

102. The department is under the control of a civil executive officer known as the Director of Food and Agriculture who shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. He or she shall be appointed by, and hold office at the pleasure of, the Governor. The director shall execute and deliver, as provided

by law, an official bond in the sum of twenty-five thousand dollars ($25,000).

SEC. 2. 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 or she 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 receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. In addition to his or her salary, each member of the board shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her 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.

SEC. 3. Section 8901 of the Government Code is amended to read:

8901. Commencing at noon on January 2, 1967, each Member of the Legislature shall receive as compensation for his or her services sixteen thousand dollars ($16,000) per year, during the term for which he or she was elected, payable in equal monthly amounts.

Commencing at noon on January 4, 1971, the annual compensation provided by this section shall be increased to nineteen thousand two hundred dollars ($19,200).

Commencing at noon on December 2, 1974, the annual compensation provided by this section shall be increased to twenty-one thousand one hundred twenty dollars ($21,120).

Commencing at noon on December 6, 1976, the annual compensation provided by this section shall be increased to twenty-three thousand two hundred thirty-two dollars ($23,232).

Commencing at noon on December 4, 1978, the annual compensation provided by this section shall be increased to twenty-five thousand five hundred fifty-five dollars ($25,555).

Commencing at noon on December 1, 1980, the annual compensation provided by this section shall be increased to twenty-eight thousand one hundred ten dollars ($28,110).

Commencing at noon at December 3, 1984, the annual compensation provided by this section shall be increased to thirty-three thousand seven hundred thirty-two dollars ($33,732).

SEC. 3.5. Section 8901.5 of the Government Code is amended to read:

8901.5. Each Member of the Legislature may elect to receive one

or more employee benefits, as prescribed by concurrent resolution heretofore or hereafter adopted, 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. 4. Section 11034 of the Government Code is amended to read:

11034. Effective July 1, 1984, the Lieutenant Governor, Attorney General, Controller, Secretary of State, Superintendent of Public Instruction, and the Treasurer shall each receive, in addition to his or her salary, and his or her actual necessary traveling expenses, an expense allowance for all ordinary and necessary expenses incurred in carrying out the functions and duties of his or her office, including ordinary and necessary expense incurred for entertainment, of not exceeding ten thousand dollars ($10,000) per year.

SEC. 5. Section 11550 of the Government Code, as amended by Chapter 142 of the Statutes of 1983, is amended to read:

11550. Effective July 1, 1984, an annual salary of seventy-two thousand five hundred dollars ($72,500) shall be paid to each of the following:

(a) Director of Finance.
(b) Secretary of Business, Transportation and Housing Agency.
(c) Secretary of Resources Agency.
(d) Secretary of Health and Welfare Agency.
(e) Secretary of State and Consumer Services Agency.
(f) Director of Industrial Relations.
(g) Commissioner of the California Highway Patrol.
(h) Secretary of Youth and Adult Correctional Agency.
(i) Director of Food and Agriculture.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 6. Section 11550.5 of the Government Code is repealed.

SEC. 7. Section 11551 of the Government Code is amended to read:

11551. Effective January 5, 1987, an annual salary of eighty-five thousand dollars ($85,000) shall be paid to the Governor.

Upon the commencement of each new term, the annual compensation provided by this section shall be increased based on the cost-of-living increases provided for state employees over the previous four years. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the combination of percentages of the general cost-of-living increases provided for state employees for the four previous fiscal years.

SEC. 8. Section 11551.5 is added to the Government Code, to

read:

11551.5. Effective January 5, 1987, an annual salary of seventy-seven thousand five hundred dollars ($77,500) shall be paid to the Attorney General.

Upon the commencement of each new term, the annual compensation provided by this section shall be increased based on the cost-of-living increases provided for state employees over the previous four years. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the combination of percentages of the general cost-of-living increases provided for state employees for the four previous fiscal years.

SEC. 10. Section 11552 of the Government Code is amended to read:

11552. Effective July 1, 1984, an annual salary of sixty-eight thousand dollars ($68,000) 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) Executive Officer of the Franchise Tax Board.
(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.
(s) Director of the Department of Personnel Administration.
(t) Chairperson and Member of the Board of Equalization.
(u) Director of Economic Development.
(v) State Director of Health Services.
(w) Director of Mental Health.
(x) Director of Developmental Services.
(y) State Public Defender.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 11. Section 11552.5 of the Government Code is amended to

read:

11552.5. Effective January 5, 1987, an annual salary of seventy-two thousand five hundred dollars ($72,500) shall be paid to each of the following:

(a) Lieutenant Governor.

(b) Secretary of State.

(c) Controller.

(d) Treasurer.

(e) Superintendent of Public Instruction.

Upon the commencement of each new term, the annual compensation provided by this section shall be increased based on the cost-of-living increases provided for state employees over the previous four years. The amount of the increase provided by this section, shall be determined by multiplying the then current compensation by the combination of percentages of the general cost-of-living increases provided for state employees for the four previous fiscal years.

SEC. 12. Section 11552.6 of the Government Code is repealed.

SEC. 13. Section 11553 of the Government Code is amended to read:

11553. Effective July 1, 1984, an annual salary of sixty-five thousand dollars ($65,000) will be paid to each of the following:

(a) Chairman of the Unemployment Insurance Appeals Board.

(b) Chairperson of the Agricultural Labor Relations Board.

(c) President of the Public Utilities Commission

(d) Chairman of the Fair Political Practices Commission.

(e) Chairman of the Waste Management Board.

(f) Chairperson of the Energy Resources Conservation and Development Commission.

(g) Chairperson of the Public Employment Relations Board.

(h) Chairperson of the Workers' Compensation Appeals Board.

(i) Administrative Director of the Division of Industrial Accidents.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increase provided for state employees during that fiscal year.

SEC. 14. Section 11553.4 of the Government Code is repealed.

SEC. 15. Section 11553.5 is added to the Government Code, to read:

11553.5. Effective July 1, 1984, an annual salary of sixty-three thousand dollars ($63,000) shall be paid to the following:

(a) Member of the Agricultural Labor Relations Board.

(b) Member of the State Energy Resources Conservation and Development Commission.

(c) Member of the Public Utilities Commission.

(d) Member of the Public Employment Relations Board.

(e) Member of the Unemployment Insurance Appeals Board.

(f) Member of the Workers' Compensation Appeals Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 16. Section 11554 of the Government Code is amended to read:

11554. Effective July 1, 1984, an annual salary of sixty thousand dollars ($60,000) 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 Consumer Affairs.

(g) Director of the State Office of Economic Opportunity.

(h) State Architect.

(i) Director of Forestry.

(j) Director of Fair Employment and Housing.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 17. Section 11554.1 of the Government Code is repealed.

SEC. 18. Section 11555 of the Government Code is amended to read:

11555. Effective July 1, 1984, an annual salary of fifty-seven thousand dollars ($57,000) shall be paid to the following:

(a) Chairman of the Board of Prison Terms.

(b) Chairman of the State Water Resources Control Board.

(c) Chairman of the Youthful Offender Parole Board.

(d) Chairman of the Occupational Safety and Health Appeals Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 19. Section 11556 of the Government Code is amended to read:

11556. Effective July 1, 1984, an annual salary of fifty-five thousand dollars ($55,000) shall be paid to each of the following:

(a) Director of Boating and Waterways.

(b) Director of the Office of Emergency Services.

(c) Member of the Board of Prison Terms.

(d) Member of the State Water Resources Control Board.

(e) Member of the Youthful Offender Parole Board.

(f) State Fire Marshal.

(g) Director of the Department of Aging.

(h) Member of the Occupational Safety and Health Appeals Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 20. Section 11560 of the Government Code is amended to read:

11560. Effective July 1, 1984, an annual salary of twenty-seven thousand five hundred dollars ($27,500) shall be paid to each of the following:

(a) Chairman of the Narcotic Addict Evaluation Authority.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 21. Section 11560.1 of the Government Code is repealed.

SEC. 22. Section 11562.5 of the Government Code is repealed.

SEC. 23. Section 11563.1 of the Government Code is amended to read:

11563.1. Effective July 1, 1984, an annual salary of twenty-four thousand dollars ($24,000) shall be paid to each member of the Narcotic Addict Evaluation Authority.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 24. Section 11563.3 of the Government Code is repealed.

SEC. 25. Section 11563.6 of the Government Code is repealed.

SEC. 26. Section 11563.7 of the Government Code is amended to read:

11563.7. Effective July 1, 1984, an annual salary of twenty thousand dollars ($20,000) shall be paid to each member of the State Personnel Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided

by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 27. Section 11563.8 is added to the Government Code, to read:

11563.8. Effective July 1, 1984, an annual salary of ten thousand five hundred dollars ($10,500) shall be paid to the President of the Traffic Adjudication Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 28. Section 11563.9 is added to the Government Code, to read:

11563.9. Effective July 1, 1984, an annual salary of ten thousand dollars ($10,000) shall be paid to each member of the Traffic Adjudication Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 29. Section 11564 is added to the Government Code, to read:

11564. Effective July 1, 1984, an annual salary of twenty thousand dollars ($20,000) shall be paid to each member of the State Air Resources Board, provided each member devotes a minimum of 60 hours per month to state board work. Such salary shall be reduced proportionately if less than 60 hours per month is devoted to state board work.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 30. Section 12000 of the Government Code is amended to read:

12000. The Governor shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

SEC. 31. Section 12086 of the Government Code is amended to read:

12086. The office is under the direction of an executive officer known as the Director of the State Office of Economic Opportunity. The director shall be appointed by the Governor subject to the confirmation of the Senate, and shall hold office at the pleasure of the

Governor. The director shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

The officers and employees of the office also shall be appointed by the Governor.

SEC. 32. Section 12500 of the Government Code is amended to read:

12500. The Attorney General shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. The annual salary of the Attorney General includes all services rendered ex officio as member of any board or commission.

SEC. 33. Section 15321 of the Government Code is amended to read:

15321. The department shall be conducted under the control of an executive officer known as the Director of Economic Development, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The director shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. The Director of Economic Development shall be a well qualified and experienced practitioner in the field of economic development.

SEC. 34. Section 15401 of the Government Code is amended to read:

15401. (a) The State Public Defender shall be appointed for a term of four years commencing on January 1, 1976, and shall serve until the appointment and qualification of his successor. Any vacancy shall be filled for the balance of the unexpired term.

(b) The State Public Defender shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

SEC. 35. Section 66740 of the Government Code is amended to read:

66740. There is in the Resources Agency the State Solid Waste Management Board, which is continued in existence and shall be known as the California Waste Management Board. Any reference in any law or regulation to the State Solid Waste Management Board is a reference to the California Waste Management Board.

The board shall consist of the following members:

(a) One member appointed by the Governor who is a mayor or a city council member.

(b) One member appointed by the Governor who is a county supervisor.

(c) Three representatives of the public appointed by the Governor.

(d) One representative of the public appointed by the Speaker of the Assembly, who shall have specialized education and experience in natural resources conservation and resources recovery.

(e) One representative of the public appointed by the Senate

Committee on Rules, who shall be a registered civil engineer under the laws of this state and have specialized education and experience in natural resources conservation and resources recovery.

(f) One member appointed by the Governor from the private sector of the solid waste management industry from southern California.

(g) One member appointed by the Governor from the private sector of the solid waste management industry from northern California.

The Governor shall appoint, subject to the advice and consent of a majority of the Members of the Senate, one of the members of the board as chairman. The chairman shall serve full time and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

SEC. 36. Section 66740 of the Government Code is amended to read:

66740. There is in the Resources Agency the State Solid Waste Management Board, which is continued in existence and shall be known as the California Waste Management Board. Any reference in any law or regulation to the State Solid Waste Management Board is a reference to the California Waste Management Board.

The board shall consist of the following members:

(a) One member appointed by the Governor who is a mayor or a city council member.

(b) One member appointed by the Governor who is a county supervisor.

(c) Three representatives of the public appointed by the Governor, one of which shall have agricultural experience in the production, processing, or both, of food and fiber.

(d) One representative of the public appointed by the Speaker of the Assembly, who shall have specialized education and experience in natural resources conservation and resources recovery.

(e) One representative of the public appointed by the Senate Committee on Rules, who shall be a registered civil engineer under the laws of this state and have specialized education and experience in natural resources conservation and resources recovery.

(f) One member appointed by the Governor from the private sector of the solid waste management industry from southern California.

(g) One member appointed by the Governor from the private sector of the solid waste management industry from northern California.

The Governor shall appoint, subject to the advice and consent of a majority of the Members of the Senate, one of the members of the board as chairman. The chairman shall serve full time and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

SEC. 36.5. Section 68500.5 of the Government Code is amended to read:

68500.5. The annual salary of the Administrative Director of the Courts shall be the same as the salary of a judge of the court of appeal, and shall be paid out of appropriations for the support of the Judicial Council. He or she shall have the same qualifications as required by Section 15 of Article VI of the Constitution for a judge of a court of appeal.

The salary of a judge of a court of appeal means the salary of a judge first appointed to the court of appeal after January 1, 1982.

SEC. 36.6. Section 2808 of the Penal Code is amended to read:

2808. The board shall, in the exercise of its duties, have all the powers and do all the things which the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To contract to employ an executive director to serve as the chief administrative officer of the authority. The person so appointed shall serve at the pleasure of the chairman. The general manager shall have wide and successful experience with a productive enterprise and have a demonstrated appreciation of the problems associated with prison management.

Any provision in the annual Budget Act providing for the compensation of a general manager shall be deemed to be available for the purpose of paying the executive director.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Such procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under its jurisdiction to enable the authority to operate as a self-supporting organization, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to paragraph (h) above to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and

activities of the authority. The authority shall assure adequate public notice of such hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars ($50,000) shall be established unless and until a hearing concerning the enterprise has been held by the authority. The authority shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if it would have a comprehensive and substantial adverse impact on a particular California business, enterprise, or industry.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold, which prices, except for articles or services to be sold to the Department of Corrections, shall be as near as possible to the prices for which agencies eligible to purchase would buy items of equivalent quality from commercial sources.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

SEC. 37. Section 39512 of the Health and Safety Code is amended to read:

39512. Each member of the state board shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 38. Section 112 of the Labor Code is amended to read:

112. The members of the appeals board shall be appointed by the Governor with the advice and consent of the Senate. The term of office of such members shall be four years and they shall hold office until the appointment and qualification of their successors.

Five of the members of the appeals board shall be experienced attorneys at law admitted to practice in the State of California. The other two members need not be such attorneys at law. All members shall be selected with due consideration of their judicial temperament and abilities. Each member shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 39. Section 138.1 of the Labor Code is amended to read:

138.1. The administrative director shall be appointed by the Governor with the advice and consent of the Senate and shall hold office at the pleasure of the Governor. He shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part

1 of Division 3 of Title 2 of the Government Code.

SEC. 40. Section 1147 of the Labor Code is amended to read:

1147. Each member of the board shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 41. Section 25207 of the Public Resources Code is amended to read:

25207. The members of the commission shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Each member of the commission shall receive the necessary traveling and other expenses incurred in the performance of his official duties. When necessary, the members of the commission and its employees may travel within or without the state.

SEC. 42. Section 40663 of the Vehicle Code is amended to read:

40663. Effective July 1, 1984, each member of the board shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. Effective July 1, 1984, each member shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties as a member of the board.

SEC. 43. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to, and in augmentation of, Item 0500-001-001 of the Budget Act of 1983 for the Special Contingent Expenses of the Governor and the Governor's office.

SEC. 44. Section 36 of this bill incorporates amendments to Section 66740 of the Government Code proposed by both this bill and SB 128. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 66740 of the Government Code, and (3) this bill is enacted after SB 128, in which case Section 35 of this bill shall not become operative.

SEC. 45. Unless otherwise specified, the salary increases provided by this bill shall become effective July 1, 1984. Until the salary increases are effective, the officers shall continue to receive the salaries payable immediately prior to July 1, 1984.

CHAPTER 804

An act to repeal Section 273ab of and to add Chapter 2.65 (commencing with Section 1000.12) to Title 6 of Part 2 of, the Penal Code, relating to child abuse and neglect.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 273ab of the Penal Code is repealed.

SEC. 2. Chapter 2.65 (commencing with Section 1000.12) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.65. CHILD ABUSE AND NEGLECT COUNSELING

1000.12. (a) It is the intent of the Legislature that nothing in this chapter is intended to deprive a prosecuting attorney of the ability to prosecute persons suspected of violating any section of this code in which a minor is a victim of an act of abuse or neglect to the fullest extent of the law if the prosecuting attorney so chooses.

(b) In lieu of prosecuting a person suspected of violating any section of this code in which a minor is a victim of an act of abuse or neglect when such person is referred to him or her by the local police or sheriff's department, the prosecuting attorney may refer that person to the county department in charge of public social services or the probation department for counseling and such other services as the department deems necessary. The prosecuting attorney shall seek the advice of the county department in charge of public social services or the probation department in determining whether or not to make the referral.

1000.13. (a) Notwithstanding Section 1000.12, no person suspected of violating any section of this code in which a minor is a victim of sexual abuse shall be referred for counseling in lieu of prosecution except upon written agreement between the prosecuting attorney and the suspected person and unless all of the following apply to the suspected person:

(1) The person is a family member of the victim. For the purposes of this chapter "family member" means a parent, stepparent, sibling, aunt, uncle, cousin, grandparent, or a member of the victim's household who has developed a family relationship with the victim.

(2) The person's criminal record does not indicate that diversion has been terminated, or probation or parole has been revoked, without thereafter being completed within the previous 10 years.

(3) The person has not been referred for counseling or other services pursuant to this chapter prior to the commission of the present alleged offense.

(4) The person has no prior conviction for any felony sexual offense or any offense in which a minor is a victim of sexual abuse and has no conviction for any felony offense involving violence against another person during the previous 10 years in which the suspected person remained free of prison custody.

(b) The prosecuting attorney may impose additional relevant criteria for determining whether to refer the suspected person under this chapter.

1000.14. If the person suspected of sexually abusing a child is referred to a counseling program, pursuant to Section 1000.13 the

county department responsible for public social services or the probation department shall monitor the progress of the referred person in the counseling program and shall report to the prosecuting attorney regarding that progress at agreed upon intervals. If the person successfully completes the counseling program, the department shall report that fact in writing to both the prosecuting attorney and the person.

1000.15. If the person suspected of sexually abusing a child fails to participate in or fails to successfully complete the counseling program as directed, or is subsequently charged with any offense involving violence against another person, or offense involving abuse or neglect of a child, the county department responsible for public social services or the probation department shall report that failure or subsequently charged offense to the prosecuting attorney who shall determine whether or not to institute prosecution of the suspected person for the violation giving rise to the referral.

1000.16. No statement or information prepared therefrom, with respect to the specific offense of which the person is suspected, which is made to any social or community program worker or the probation department during any counseling program assigned pursuant to this chapter shall be admissible in any future criminal action or proceeding.

1000.17. If the person is referred pursuant to this chapter he or she shall be responsible for paying the administrative cost of the referral and the expense of such counseling as determined by the county department responsible for public social services or the probation department. The administrative cost of the referral shall not exceed one hundred dollars ($100) for any person referred pursuant to this chapter for an offense punishable as a felony and shall not exceed fifty dollars ($50) for any person referred pursuant to the chapter for an offense punishable as a misdemeanor. The department shall take into consideration the ability of the referred party to pay and no such person shall be denied counseling services because of his or her inability to pay.

1000.18. The counseling program shall not exceed five years from the time the person suspected of abusing or neglecting the child is referred pursuant to this chapter. If the suspected person successfully completes the counseling program under this chapter he or she shall not be prosecuted for the alleged offense.

CHAPTER 805

An act to add Chapter 6 (commencing with Section 2300) to Division 3 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Chapter 6 (commencing with Section 2300) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 6. FEDERAL FUNDS FOR DEMONSTRATION PROJECTS

2300. The department shall be responsible for coordinating the work necessary to carry out the Los Angeles demonstration project, as described in the financial plans adopted pursuant to Sections 307.1 and 347.1, financed with the federal funds made available by subdivision (a) of Section 131 of the Surface Transportation Assistance Act of 1982. The work shall generally be undertaken in accordance with the provisions of Chapter 7 (commencing with Section 2350), relating to urban system projects. None of the funds expended for the work of the demonstration project shall be subject to the provisions of Section 188 or 188.8.

2301. The department shall undertake the Prairie Creek Redwood State Park demonstration project or other projects as described in federal law in lieu of this project financed, in part, with funds made available by Section 152 of the Federal-Aid Highway Act of 1978 and Section 12 of the Federal-Aid Highway Act of 1981. The total of all funds expended to complete this project or other projects as described in federal law in lieu of this project shall not be subject to any of the provisions of Section 188 or 188.8.

SEC. 2. This act is an urgency measure 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 federal funds now available may be utilized to undertake work that will save fuel, reduce motor vehicle accidents, and provide jobs in areas of high unemployment, it is necessary that this act take effect immediately.

CHAPTER 806

An act to amend Section 481.5 of the Insurance Code, relating to unearned premium.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 481.5 of the Insurance Code is amended to read:

481.5. (a) Whenever an insurer endorses, rejects, declines, cancels, or surrenders a policy of insurance as defined in subdivision (a) of Section 660 or Section 675, or a policy of insurance as defined in subdivision (a) of Section 660 or Section 675 is canceled pursuant to Section 673, the unearned premium shall be tendered to the insured or to the person entitled thereto or to the insurance agent of record as the insurer's agent for transmittal within 30 days after the cessation or amendment of coverage due to endorsement, cancellation, rejection, surrender, or rescission. Any unearned premium not tendered within the time specified above shall bear interest at the rate of 10 percent per annum from and after such 30 days. Such interest imposition shall not apply to any insurer in conservatorship or liquidation and shall constitute the sole penalty paid to the insured for a failure to refund an unearned premium.

(b) Whenever a policy is canceled pursuant to Section 673, other than a policy as defined in subdivision (a) of Section 660 or Section 675, the unearned premium shall be tendered to the person entitled thereto or to the insurance agent of record as the insurer's agent for transmittal within 120 days after the cessation of coverage due to cancellation. Any unearned premium not tendered within the time specified above shall bear interest at the rate of 10 percent per annum from and after such 120 days. Such interest imposition shall not apply to any insurer in conservatorship or liquidation and shall constitute the sole penalty paid to the insured for a failure to refund an unearned premium.

(c) For purposes of subdivisions (a) and (b), where the unearned premium is not assigned as security to a premium finance agency pursuant to a premium finance agreement and where the amount of unearned premium is less than twenty-five dollars ($25), tender of unearned premium shall include applying the amount of unearned premium either to the renewal premium at the next renewal date or to other premiums due, provided written notice of either application is given to the insured within 30 days after the endorsement, rejection, declination, cancellation, or surrender of a policy of insurance. At the time of endorsement or surrender of a policy of insurance or, within 15 days after the mailing of the written notice required by this subdivision, the insured may request in writing that the unearned premium be tendered as provided in subdivisions (a) and (b).

CHAPTER 807

An act to amend Sections 5803 and 5813 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 5803 of the Revenue and Taxation Code is amended to read:

5803. (a) "Full cash value" means the "full cash value" or the "fair market value," as determined pursuant to Section 110, of a mobilehome similarly equipped and installed, including any value attributable to a mobilehome accessory building or structure as defined in Section 18213 of the Health and Safety Code which is sold along with the mobilehome, giving recognition, however, to the exemption provided in subdivision (m) of Section 3 of Article XIII of the Constitution.

(b) The Legislature finds and declares that, because owners of mobilehomes subject to property taxation on rented or leased land do not own the land on which the mobilehome is located and are subject to having the mobilehome removed upon termination of tenancy, "full cash value" for purposes of subdivision (a) does not include any value attributable to the particular site where the mobilehome is located on rented or leased land which would make the sale price of the mobilehome at that location different from its price at some other location on rented or leased land. In determining the "full cash value" of such a mobilehome on rented or leased land, the assessor shall take into consideration, among other relevant factors, sales prices listed in recognized value guides for mobilehomes, including, but not limited to, the Kelly Blue Book Manufactured Housing and Mobilehome Guide and the National Automobile Dealer Association's Mobilehome Manufactured Housing Appraisal Guide.

SEC. 2. Section 5813 of the Revenue and Taxation Code is amended to read:

5813. For each lien date after the lien date for which the base year value is determined, the taxable value of a mobilehome shall be the lesser of:

(a) Its base year value, compounded annually since the base year by an inflation factor, which shall be the percentage change in the cost of living, as defined in Section 2212, provided, that any percentage increase shall not exceed 2 percent of the prior year's value; or

(b) Its full cash value, as defined in Section 5803, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, or other factors causing a

decline in value; or

(c) If the mobilehome is damaged or destroyed by disaster, misfortune, or calamity, its value determined pursuant to (b) shall be its base year value until the mobilehome is restored, repaired or reconstructed or other provisions of law require establishment of a new base year value.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 808

An act to amend Section 21151.1 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 21151.1 of the Government Code is amended to read:

21151.1. Notwithstanding Section 21151, if a retired person serves without reinstatement from retirement in an elective office and part or all of his or her retirement allowance is based on service in that elective office, the portion of the allowance based on service in that elective office shall be suspended during incumbency in that elective office. The entire retirement allowance shall be paid for time on and after the person vacates the elective office in the monthly amount payable had the allowance not been suspended.

The governing body of every employer other than the state shall cause immediate notice to be given to the system of the election of any retired person to an office of such employer.

CHAPTER 809

An act to add Section 58889.1 to the Food and Agricultural Code, relating to agricultural marketing.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 58889.1 is added to the Food and Agricultural Code, to read:

58889.1. Notwithstanding Section 58889, any marketing order for processed fruits, nuts, or vegetables may contain in its advertising and sales promotion plan provisions to allocate funds to promote private brands or trade names.

CHAPTER 810

An act to amend Section 10164 of the Public Contract Code, relating to contractors.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 10164 of the Public Contract Code is amended to read:

10164. In all state projects where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made by the Controller unless and until the Registrar of Contractors certifies to the Controller that the records of the Contractors State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors State License Board. The department shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement. Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract as provided in Section 10181 and shall result in the forfeiture of the security of the bidder.

CHAPTER 811

An act to amend Sections 701 and 707.5 of, and to add Section 707.8 to, the Elections Code, relating to elections.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 701 of the Elections Code is amended to read:

701. The county clerk shall cancel the registration in the following cases:

(a) At the request of the person registered.

(b) When the mental incompetency of the person registered is legally established as provided in Sections 707.5, 707.6, 707.7, and 707.8.

(c) Upon proof that the person is presently imprisoned or on parole for conviction of a felony.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered

(f) Pursuant to the provisions of Sections 706, 801, and 803.

SEC. 1.5. Section 701 of the Elections Code is amended to read:

701. The county clerk shall cancel the registration in the following cases:

(a) At the request of the person registered. The request shall either be in writing signed by the person registered or the person shall personally make the request in the office of the county clerk.

(b) When the mental incompetency of the person registered is legally established as provided in Sections 707.5, 707.6, 707.7, and 707.8.

(c) Upon proof that the person is presently imprisoned or on parole for conviction of a felony.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to the provisions of Sections 706, and Article 6 (commencing with Section 800).

(g) Upon receipt of any mailing returned by the postal service as undeliverable.

(h) Upon official notification that the voter is registered to vote in another county or state.

A blank affidavit of registration shall immediately be mailed to the address from which a cancellation is effected pursuant to subdivision (g).

SEC. 2. Section 707.5 of the Elections Code is amended to read:

707.5. (a) A person shall be deemed mentally incompetent, and

therefore disqualified from voting, if, during the course of any of the proceedings set forth below, the court finds that the person is not capable of completing an affidavit of voter registration in accordance with Section 500 and (1) a conservator for the person or the person and estate is appointed pursuant to Division 4 (commencing with Section 1400) of the Probate Code, or, (2) a conservator for the person or the person and estate is appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code or (3) a conservator is appointed for the person pursuant to proceedings initiated under Section 5352.5 of the Welfare and Institutions Code, the person has been found not competent to stand trial, and the person's trial or judgment has been suspended pursuant to Section 1370 of the Penal Code, or (4) a person has plead not guilty by reason of insanity, has been found to be not guilty pursuant to Section 1026 of the Penal Code, and is deemed to be gravely disabled at the time of judgment as defined in paragraph (2) of subdivision (h) of Section 5008 of the Welfare and Institutions Code.

(b) If any such proceeding under the Welfare and Institutions Code is heard by a jury, the jury shall unanimously find that the person is not capable of completing an affidavit of voter registration before the person shall be disqualified from voting.

(c) Whenever an order establishing a conservatorship is made and in connection with such order it is found that the person is not capable of completing an affidavit of voter registration, the court shall forward such order and determination to the county clerk of the person's county of residence.

SEC. 3. Section 707.8 is added to the Elections Code, to read:

707.8. (a) Any person who (1) has plead not guilty by reason of insanity and who has been found to be not guilty pursuant to Section 1026 of the Penal Code, (2) has been found incompetent to stand trial and whose trial or judgment has been suspended pursuant to Section 1370 of the Penal Code, (3) has been convicted of a felony and who was judicially determined to be a mentally disordered sex offender pursuant to former Section 6300 of the Welfare and Institutions Code, as repealed by Chapter 928 of the Statutes of 1981, or (4) has been convicted of a felony and is being treated at a state hospital pursuant to Section 2684 of the Penal Code shall be disqualified from voting or registering to vote during that time that the person is involuntarily confined, pursuant to a court order, in a public or private facility.

(b) Upon the order of commitment to a treatment facility referred to in subdivision (a), the court shall notify the clerk of the person's county of residence and order the person to be disqualified from voting or registering to vote.

(c) If the person is later released from the public or private treatment facility, the court shall notify the county clerk of the person's county of residence that the person's right to register to vote is restored.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 701 of the Elections Code proposed by both this bill and AB 1373. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 701 of the Elections Code, and (3) this bill is enacted after AB 1373, in which case Section 1 of this bill shall not become operative.

CHAPTER 812

An act to amend Section 5093 of the Education Code, Sections 315, 3507, 3510, 3783, 3786, 4055, 5013, 5016, 5322, 5324, 10211, 10340, and 14237 of the Elections Code, and Section 61121 of the Government Code, relating to elections.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 5093 of the Education Code is amended to read:

5093. (a) There shall be no special election or appointment to fill a vacancy on a governing board if the vacancy occurs within four months of the end of the term of that position.

(b) Section 5091 shall not apply to a vacancy on a governing board if the vacancy occurs, or a resignation specifying a deferred effective date is filed with the county superintendent of schools, during the period between four months and 98 days prior to a regularly scheduled governing board election and the position is not scheduled to be filled at such election. In such a case, the position shall be filled at a special election for that position to be consolidated with the regular election. A person elected to fill a position under this subdivision shall take office at the next regularly scheduled meeting of the governing board following the election and shall serve only until the end of the term of the position which he was elected to fill.

(c) If a special election pursuant to Section 5091 could be consolidated with the next regular election for governing board members, and the vacant position is scheduled to be filled at such regular election, there shall be no special election.

SEC. 2. Section 315 of the Elections Code is amended to read:

315. In lieu of executing a new affidavit of registration for a change of address within the county the county clerk shall accept a notice or letter of the change of address signed by a voter as he is registered.

The county clerk shall accept notifications received by mail by the fourth day after the 29th day before an election, if the notice or letter is dated on or before the 29th day prior to the election, and shall change the address on the voter's affidavit of registration

accordingly. Any requests for change of address received prior to an election, but after the day specified herein shall not be applicable to that election but shall apply to all subsequent elections.

SEC. 3. Section 3507 of the Elections Code is amended to read:

3507. The proponents of any proposed initiative measure shall, prior to its circulation, place upon each section of the petition, above the text of the measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12-point, the summary prepared by the Attorney General. A space at least one inch wide shall be left blank at the top of each page and after each name, for the use of the clerk, in verifying the petition.

SEC. 4. Section 3510 of the Elections Code is amended to read:

3510. Across the top of each page after the first page of every referendum petition or section of a referendum petition, which is prepared and circulated, there shall be printed in 18-point gothic type a short title, in not to exceed 20 words, showing the nature of the petition and the subject to which it relates.

A space at least one inch wide shall be left blank at the top of each page and after each name, for the use of the clerk, in verifying the petition.

SEC. 4.5. Section 3783 of the Elections Code is amended to read:

3783. The board of supervisors or any member or members of the board authorized by the board, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of such voters and associations may file a written argument for or against any county measure. No argument shall exceed 300 words in length. The county clerk shall cause an argument for and an argument against the measure, and the analysis of the measure, to be printed, and shall enclose a copy of both arguments preceded by the analysis with each sample ballot. The printed arguments and the analysis are "official matter" within the meaning of those words used in Section 10010.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the county clerk, the word "Proposition" may be substituted for the word "Measure" in such titles. Words used in the title shall not be counted when determining the length of any argument.

SEC. 5. Section 3786 of the Elections Code is amended to read:

3786. If more than one argument for or more than one argument against any county measure is submitted to the county clerk within the time prescribed, the county clerk shall select one of the

arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the county clerk shall give preference and priority in the order named to the arguments of the following:

(a) The board of supervisors or member or members of the board authorized by the board.

(b) The individual voter or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

SEC. 6. 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 88 days nor more than 103 days after the order of the legislative body or at a special election called for the purpose not less than 88 days after the order of the legislative body. To avoid holding more than one special election within any six months, the date for holding the special election may be fixed later than 103 days, but at as early a date as practicable after the expiration of the six months from the last special election. When it is legally possible to hold a special election under this chapter within six months prior to a regular municipal election, the legislative body may submit the proposed ordinance at the regular election instead of at a special election. 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. 6.5. Section 5013 of the Elections Code is amended to read:

5013. The legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure. No argument shall exceed 300 words in length. The city clerk shall cause an argument for and an argument against the measure to be printed along with the following statement on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support or opposition of the proposed laws are the opinions of the authors."

The city clerk shall enclose a printed copy of both arguments with each sample ballot; provided, that only those arguments filed pursuant to this section shall be printed and enclosed with the sample ballot. The printed arguments are "official matter" within the meaning of those words used in Section 10010.

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the clerk, the word "Proposition" may be substituted for the word "Measure" in such titles. Words used in the title shall not be counted when determining the length of any argument.

SEC. 7. Section 5016 of the Elections Code is amended to read:

5016. If more than one argument for or more than one argument against any city measure is submitted to the city clerk within the time prescribed, the city clerk shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the city clerk shall give preference and priority in the order named to the arguments of the following:

(a) The legislative body, or member or members of the legislative body authorized by that body.

(b) The individual voter or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

SEC. 7.5. Section 5322 of the Elections Code is amended to read:

5322. The governing board of the district or any member or members of the board authorized by the board, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of such voters and associations may file a written argument for or against any school measure. No argument shall exceed 300 words in length. No more than five signatures shall appear with any argument submitted under this section. If an argument is signed by more than five persons, the names of only the first five persons signing, determined by the order in which their signatures appear, shall be printed with the argument. The person conducting the election shall cause an argument for and an argument against the measure to be printed, and shall transmit the arguments to the voters with the card giving notice of the election.

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument in Favor of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the clerk, the word "Proposition" may be substituted for the word "Measure" in such titles. Words used in the title shall not be counted when determining the length of any measure.

SEC. 8. Section 5324 of the Elections Code is amended to read:

5324. If more than one argument for or more than one argument against any school measure is submitted to the person conducting the

election within the time prescribed, the person conducting the election shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the arguments the person conducting the election shall give preference and priority in the order named to the arguments of the following:

(a) The governing board of the district or member or members of the board authorized by the board.

(b) The individual voter or bona fide associations of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

SEC. 9. 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) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination papers, except as specifically requested by the election official as specified in subdivision (b) or as provided in subdivision (d).

(d) 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.

(e) In all cases words so used shall be printed in 8-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.

(f) 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. 10. Section 10340 of the Elections Code is amended to read:

10340. If an official ballot consisting of one or more individual ballot cards upon which the names of candidates and measures are printed is used for absent voting, the two stubs specified in Section 10334 may be eliminated from the ballot cards by printing a group style number on each card and by printing the information required by subdivisions (c), (d), (e), (f), and (g) of Section 10334 on a

separate form accompanying the official ballot. If the two stubs are not eliminated, the language required by subdivision (b) of Section 10334 to be printed on the second stub may be omitted.

SEC. 11. Section 14237 of the Elections Code is amended to read:

14237. All ballots, except absent voter ballots, shall be marked only with the marking device provided by law.

To prevent voters from marking their ballots with a pen or pencil, at the time of delivering a ballot to a voter, the precinct officer shall distinctly state that the voter shall mark the ballot with the device provided by law or the ballot will not be counted.

SEC. 12. Section 61121 of the Government Code is amended to read:

61121. The election shall be held on the next established election date not less than 88 days from the date of the final hearing on the formation petition.

CHAPTER 813

An act to amend Section 1503 of the Elections Code, relating to elections.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 1503 of the Elections Code is amended to read:

1503. (a) The county clerk may change or alter any precinct boundaries.

(b) If any changes or alterations are made the clerk shall prepare new detail maps or exterior descriptions thereof, or both. The county surveyor shall, if so requested, provide assistance to the clerk in the preparation of the detail maps or exterior descriptions.

(c) The county clerk shall provide, at the request of any interested person, the following information:

(1) All precinct boundary changes and alterations made within the current calendar year and the immediately preceding two calendar years.

(2) All precinct consolidations made within the current calendar year and the immediately preceding two calendar years, specifying the election or elections in which the consolidations were made.

(d) The information provided to persons pursuant to subdivision (c) shall include the precinct numbers before the change or alteration and then a description, including precinct numbers, of the changes or alterations. The description may include maps.

(e) The information described in subdivisions (c) and (d) shall be compiled for each calendar year and shall be kept and filed so as to

be accessible to any person upon request.

(f) The clerk may charge a person requesting information the amount needed to reimburse the county for the actual expenses incurred in providing copies of the information required under this section.

(g) The duties and responsibilities imposed on the county clerk shall, with respect to a municipal election, be performed by the city clerk if the city conducts the municipal election and establishes its precincts.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 814

An act to amend Sections 22401, 22403, 22405, 22416, 24200, 24401, 24403, 24405, 24416, 26200, and 26403 of the Financial Code, relating to loans.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 22401 of the Financial Code is amended to read:

22401. (a) A license, along with any currently effective order of the commissioner approving a different name pursuant to Section 22405, shall be conspicuously posted in the place of business authorized by the license.

(b) A license is not transferable or assignable. A license issued to a partnership or a limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

SEC. 2. Section 22403 of the Financial Code is amended to read:

22403. (a) If a licensee desires to change its place of business to a street address other than that designated in its license, such person shall give written notice to the commissioner on a form provided by the commissioner at least 10 days prior to the change. The commissioner shall then provide a written approval of the change and the date of the approval.

(b) If notice is not given at least 10 days prior to such change as required by subdivision (a), the commissioner may assess a civil

penalty on the licensee of not to exceed five hundred dollars ($500).

SEC. 3. Section 22405 of the Financial Code is amended to read:

22405. No licensee shall transact the business licensed or make any loan provided for by this division under any other name or at any other place of business than that named in the license except pursuant to a currently effective written order of the commissioner authorizing such other name or other place of business. Any such order, while effective, shall be deemed to amend the original license issued pursuant to Section 22207.

SEC. 4. Section 22416 of the Financial Code is amended to read:

22416. A licensed personal property broker may act as a broker as defined in Section 22002 at its licensed place of business without obtaining an additional license as a broker under this division provided the licensee has notified the commissioner of such action, in writing.

SEC. 5. Section 24200 of the Financial Code is amended to read:

24200. No person shall engage in the business of a consumer finance lender or broker without obtaining a license from the commissioner.

SEC. 6. Section 24401 of the Financial Code is amended to read:

24401. (a) A license, along with any currently effective order of the commissioner approving a different name pursuant to Section 24405, shall be conspicuously posted in the place of business authorized by the license.

(b) A license is not transferable or assignable. A license issued to a partnership or a limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

SEC. 7. Section 24403 of the Financial Code is amended to read:

24403. (a) If a licensee desires to change its place of business to a street address other than that designated in its license, such person shall give written notice to the commissioner on a form provided by the commissioner at least 10 days prior to such change. The commissioner shall then provide a written approval of the change and the date of the approval.

(b) If notice is not given at least 10 days prior to the change as required by subdivision (a), the commissioner may assess a civil penalty on the licensee of not to exceed five hundred dollars ($500).

SEC. 8. Section 24405 of the Financial Code is amended to read:

24405. No licensee shall transact the business licensed or make any loan provided for by this division under any other name or at any other place of business than that named in the license, except pursuant to a currently effective written order of the commissioner authorizing such other name or other place of business. Any such order, while effective, shall be deemed to amend the original license issued pursuant to Section 24207.

SEC. 9. Section 24416 of the Financial Code is amended to read:

24416. A licensed consumer finance lender may act as a broker as defined in Section 24002 at its licensed place of business without obtaining an additional license as a broker under this division provided the licensee has notified the commissioner of such action, in writing.

SEC. 10. Section 26200 of the Financial Code is amended to read:

26200. No person shall engage in the business of a commercial finance lender without obtaining a license from the commissioner.

SEC. 11. Section 26403 of the Financial Code is amended to read:

26403. (a) If a licensee desires to change its place of business to a street address other than that designated in its license, such person shall give written notice to the commissioner on a form provided by the commissioner at least 10 days prior to the change. The commissioner shall then provide a written approval of the change and the date of the approval.

(b) If notice is not given at least 10 days prior to such change as required by subdivision (a), the commissioner may assess a civil penalty on the licensee of not to exceed five hundred dollars ($500).

CHAPTER 815

An act to amend Section 36 of the Alameda County Flood Control and Water Conservation District Act (Chapter 1275 of the Statutes of 1949), and to amend Section 2.8 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), relating to flood control districts.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 36 of the Alameda County Flood Control and Water Conservation District Act (Chapter 1275 of the Statutes of 1949) is amended to read:

Sec. 36. Notwithstanding any other provisions of this act, the following shall apply with respect to the establishment, government, operation, and financing of any zone lying, in whole or in part, in Pleasanton or Murray Townships:

1. The board of supervisors shall have no authority to proceed with the establishment of any zone lying, in whole or in part, in Pleasanton or Murray Townships without first obtaining the approval thereof by a vote of a majority of the qualified electors voting at a regular or special election on the proposition; the election shall in all particulars be held, as nearly as practicable, in conformity with the general election laws of the state, and the cost thereof shall be reimbursed to the district if a zone is established.

2. Any zone established by the board of supervisors under the

provisions of this act lying, in whole or in part, in Pleasanton or Murray Townships, shall be governed and controlled by a board of seven directors elected by the qualified electors residing within the boundaries of the zone.

The term of directors shall be four years from and after their election. Elections for directors shall be consolidated with the direct primary election in each even-numbered year. Terms of office shall commence July 1st of the year in which elected.

Vacancies in the membership of a board shall be filled for the unexpired term by appointment by a majority of the remaining members of the board.

The directors shall be elected at large and, except as provided herein, the election of the directors shall be conducted in substantially the same manner as provided by the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code), except that the time for the nomination of candidates and issuance of notices in connection therewith shall be at the times provided by general law for the nomination of candidates at the direct primary election.

The directors shall be residents of the proposed zone and qualified electors and owners of real property therein.

The board of directors may authorize each director to receive compensation not exceeding fifty dollars ($50) for each meeting of the board attended by him, not exceeding four meetings in any calendar month, and his actual and necessary expenses incurred in performance of official duties under this act, payable from the funds of the zone.

3. The board of directors of any zone in which directors have been elected as provided in this act shall have the power to make and enforce all needful rules and regulations for the administration and government of the zone and the zone board may, in its discretion, appoint a chairman, a secretary, and other officers, agents and employees for the zone board, or zone that, in its judgment, may be deemed necessary, prescribe their duties, and fix their compensation. The officers, agents, and employees shall be appointed under and pursuant to the civil service rules and regulations of the County of Alameda. However, the chairman and secretary of the board, and experts, consultants, or technical or other advisers for particular purposes and laborers, employed for a temporary period, may be appointed by the zone board without reference to any classified civil service list.

4. If any of the reports, supplementary reports, additional reports, or recommendations provided for in Section 9 of this act relate to projects or work in any zone in which a zone board of directors has been elected as provided in this act, full and complete copies thereof shall be filed with the zone board immediately upon the filing of the reports or recommendations with the board of supervisors.

5. If, under Section 10 of this act, the board finds that any project or work of improvement is, in whole or in part, for the benefit of any

zone in which a board of directors has been elected, the approval or concurrence of the zone board shall be obtained before any final determination is made to proceed with the project or work of improvement.

6. No proceeding shall be commenced or taken by the board under Sections 11, 12.1, or 12.2 of this act for the institution of any project or work of improvement or the establishment of any improvement district, in whole or in part, in any zone in which a board of directors has been elected, until the board has first received the approval or concurrence of the zone board to the institution of the project or work of improvement or the establishment of any special benefit, drainage, or improvement area or district.

7. In any zone in which a board of directors has been elected, the tax or assessment for any purpose or purposes, other than administrative costs and expenses of the district, shall be based upon a budget or budgets prepared by, or under the direction of, the zone board of directors.

The taxes and assessments (other than the tax to pay the general administrative costs and expenses of the district and other than any taxes, asessments, or fees levied for improvement districts or pursuant to Sections 12.1, 12.2, and 16 of this act to pay bonds and interest thereon) levied by the board pursuant to Section 12 of this act upon any property in any zone lying, in whole or in part, in Pleasanton or Murray Townships shall not exceed in the aggregate the sum of fifteen cents ($0.15) on each one hundred dollars ($100) of assessed valuation unless a larger tax has been approved by a vote of not less than a majority of the qualified electors voting upon the proposition to increase the tax.

Notwithstanding any other provisions of this section, taxes and assessments may be levied by the board after approval by the zone board, pursuant to Sections 12 or 12.1 of this act, upon any property in the zone for the purpose of making payments to the State of California for the construction, maintenance, repair, and operation and all other costs of the zone's prorated share of state water facilities.

8. No proceeding shall be commenced or taken by the board under Section 13 of this act for the incurring of a bonded indebtedness to pay the cost of any work or improvement in any zone in which a board of directors has been elected, until the board has first received the approval or concurrence of the zone board to the incurring of the bonded indebtedness.

The amount of bonded indebtedness outstanding at any time shall not exceed 5 percent of the assessed valuation of all taxable property in any zone lying, in whole or in part, in Pleasanton or Murray Townships.

SEC. 2. Section 2.8 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:

Sec. 2.8. The Improvement Act of 1911, the Street Opening Act of 1903, the Municipal Improvement Act of 1913, and the

Improvement Bond Act of 1915 are applicable to the district. In addition to all other powers granted under this act, the district may, whenever the public interest or convenience may require, in the discretion of the board of supervisors, use those acts or any of them to acquire, construct, or complete any improvements or work authorized by this act and to levy assessments and reassessments and issue bonds to pay for the costs and expenses of such improvements or work.

CHAPTER 816

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. 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 a 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 the 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 the 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 or without a current California registration 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 that 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 the 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 the bail has been deposited or accepting the notice to appear, that 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. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(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.

(o) When any unattended vehicle is found upon a highway with a registration expiration date in excess of one year before the date it is found on the highway. For purposes of this subdivision, the unattended vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration. In lieu of obtaining proof of current registration, the storing agency may, in its discretion, issue a notice to appear for the registration violation.

(p) When a peace officer arrests a driver of a motor vehicle on the basis of reasonable cause to believe that the driver does not then hold a driver's license issued under this code in violation of Section 12500, or that the driver has driven that motor vehicle when that person's driving privilege is suspended or revoked, pursuant to Sections 14601, 14601.1, 14601.2, or 14601.3, and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. No vehicle may be impounded pursuant to this subdivision if, upon reasonable inquiry, the peace officer could determine that the driver has been issued a license which is not suspended or revoked and the offense is only a violation of failure to have a valid license in possession under Section 12951.

Any vehicle so removed from the highway shall not be released to the registered owner or to any licensed driver designated by the registered owner except upon presentation of the owner's or his or her representative's currently valid driver's license to operate the vehicle or upon order of a court.

SEC. 2. 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 may 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 a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and 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.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the 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 the 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 stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to an extent so 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 or without a current California registration 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 that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she 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 the 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 the bail has been deposited or accepting the notice to appear, that 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. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(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 or her identity and an address within this state at which he or she 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 the 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 that use or movement, and signs giving notice that the 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 parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) When any unattended vehicle is found upon a highway with a registration expiration date in excess of one year before the date it is found on the highway. For purposes of this subdivision, the unattended vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration. In lieu of obtaining current registration, the storing agency may, in its discretion, issue a notice to appear for the registration violation.

(p) When a peace officer arrests a driver of a motor vehicle on the basis of reasonable cause to believe that the driver does not then hold a driver's license issued under this code in violation of Section 12500, or that the driver has driven that motor vehicle when that person's driving privilege is suspended or revoked, pursuant to Sections 14601, 14601.1, 14601.2, or 14601.3, and there is no passenger in the

vehicle who has a valid driver's license and authorization to operate the vehicle. No vehicle may be impounded pursuant to this subdivision if, upon reasonable inquiry, the peace officer could determine that the driver has been issued a license which is not suspended or revoked and the offense is only a violation of failure to have a valid license in possession under Section 12951.

Any vehicle so removed from the highway shall not be released to the registered owner or to any licensed driver designated by the registered owner except upon presentation of the owner's or his or her representative's currently valid driver's license to operate the vehicle or upon order of a court.

SEC. 3. Section 2 of this bill incorporates amendments to Section 22651 of the Vehicle Code proposed by both this bill and SB 589. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 22651 of the Vehicle Code, and (3) this bill is enacted after SB 589, in which case Section 1 of this bill shall not become operative.

CHAPTER 817

An act to amend Section 3512 of the Public Utilities Code, relating to carriers.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 3512 of the Public Utilities Code is amended to read:

3512. "Occasionally" as used in Section 3511 means occasionally or for a total annual compensation from all sources for providing transportation for hire of not more than five thousand dollars ($5,000), and which transportation constitutes the sole transportation of persons or property for hire or compensation.

CHAPTER 818

An act to amend Sections 1088.5, 1089.5, and 1094.6 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 1088.5 of the Code of Civil Procedure is amended to read:

1088.5. In a trial court, if no alternative writ is sought, proof of service of a copy of the petition need not accompany the application for a writ at the time of filing, but proof of service of a copy of the filed petition must be lodged with the court prior to a hearing or any action by the court.

SEC. 2. Section 1089.5 of the Code of Civil Procedure is amended to read:

1089.5. Where a petition for writ of mandate is filed in the trial court pursuant to Section 1088.5, and where a record of the proceedings to be reviewed has been filed with the petition or where no record of a proceeding is required, the respondent shall answer or otherwise respond within 30 days after service of the petition. However, where a record of the proceeding to be reviewed has been requested pursuant to Section 11523 of the Government Code, or otherwise, and has not been filed with the petition, the party upon whom the petition has been served, including any real party in interest, shall answer or otherwise respond within 30 days following receipt of a copy of the record.

SEC. 3. Section 1094.6 of the Code of Civil Procedure is amended to read:

1094.6. (a) Judicial review of any decision of a local agency, other than school district, as the term local agency is defined in Section 54951 of the Government Code, or of any commission, board, officer or agent thereof, may be had pursuant to Section 1094.5 of this code only if the petition for writ of mandate pursuant to such section is filed within the time limits specified in this section.

(b) Any such petition shall be filed not later than the 90th day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision in any applicable provision of any statute, charter, or rule, for the purposes of this section, the decision is final on the date it is made. If there is such provision for reconsideration, the decision is final for purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision the decision is final for the purposes of this section on the date that reconsideration is rejected.

(c) The complete record of the proceedings shall be prepared by the local agency or its commission, board, officer, or agent which made the decision and shall be delivered to the petitioner within 90 days after he has filed a written request therefor. The local agency may recover from the petitioner its actual costs for transcribing or otherwise preparing the record. Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer, the final decision, all admitted exhibits, all rejected exhibits in the possession of the local

agency or its commission, board, officer, or agent, all written evidence, and any other papers in the case.

(d) If the petitioner files a request for the record as specified in subdivision (c) within 10 days after the date the decision becomes final as provided in subdivision (b), the time within which a petition pursuant to Section 1094.5 may be filed shall be extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the petitioner or his attorney of record, if he has one.

(e) As used in this section, decision means a decision subject to review pursuant to Section 1094.5, suspending, demoting, or dismissing an officer or employee, revoking, or denying an application for a permit, license, or other entitlement, or denying an application for any retirement benefit or allowance.

(f) In making a final decision as defined in subdivision (e), the local agency shall provide notice to the party that the time within which judicial review must be sought is governed by this section.

As used in this subdivision, "party" means an officer or employee who has been suspended, demoted or dismissed; a person whose permit, license, or other entitlement has been revoked or suspended, or whose application for a permit, license, or other entitlement has been denied; or a person whose application for a retirement benefit or allowance has been denied.

(g) This section shall be applicable to a local agency only if the governing board thereof adopts an ordinance or resolution making this section applicable. If such ordinance or resolution is adopted, the provisions of this section shall prevail over any conflicting provision in any otherwise applicable law relating to the subject matter, unless the conflicting provision is a state or federal law which provides a shorter statute of limitations, in which case the shorter statute of limitations shall apply.

CHAPTER 819

An act to add Section 14018.4 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 14018.4 is added to the Welfare and Institutions Code, to read:

14018.4. (a) Reimbursement shall not be denied to any hospital for care rendered to an eligible Medi-Cal beneficiary for the sole reason that a proof of eligibility label does not accompany the bill so long as the claim includes other appropriate documentation of

eligibility.

(b) The director shall require county welfare departments to issue, upon the request of a hospital providing care to an eligible Medi-Cal beneficiary, replacement Medi-Cal proof of eligibility labels or other appropriate documentation of eligibility to the hospital, if all of the following conditions are met:

(1) The hospital attempted to obtain a label from the beneficiary at the time the service was provided.

(2) The hospital made a subsequent attempt to obtain a label or other appropriate documentation from the beneficiary.

(c) Notwithstanding subdivision (a), the director shall require that the replacement proof of eligibility label or other appropriate documentation of eligibility provided pursuant to subdivision (b) accompany the bill of the hospital.

CHAPTER 820

An act to amend Sections 503, 505, 610, 611.1, 701, 800, 801, 803, 804, 825, and 826 of, to add Sections 504, 613, 704.5, 800.1, 800.2, and 800.3 to, and to repeal Sections 504, 608, 706, 706.1, 706.2, 706.3, 10007.5, and 10010.1 of, the Elections Code, relating to elections.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 503 of the Elections Code is amended to read:

503. (a) Except as provided in subdivision (c), the affidavit of registration shall show all the facts required to be stated.

(b) If the affidavit does not contain all of the information required, but the telephone number of the affiant is legible, the county clerk shall telephone the affiant and attempt to collect the missing information.

(c) If the affidavit does not contain all of the information required, and the county clerk is not able to collect the missing information by telephone, but the mailing address of the affiant is legible, the county clerk shall inform the affiant of the reason for rejection and shall send to the affiant a new voter registration card.

(d) If the affidavit fails to state the affiant's occupation as prescribed in subdivision (g) of Section 500, it shall be presumed that the affiant is unemployed or has no occupation, and such missing information shall not affect the validity of the affidavit.

SEC. 2. Section 504 of the Elections Code is repealed.

SEC. 3. Section 504 is added to the Elections Code, to read:

504. Upon receipt of a properly executed affidavit of registration or address correction notice or letter pursuant to Section 315 or

Article 6 (commencing with Section 800) the county clerk shall send the voter a voter notification by nonforwardable, first-class mail, address correction requested. The voter notification shall be substantially in the following form:

VOTER NOTIFICATION

You are registered to vote. You will have to reregister whenever you move.

Your registration is based on either:

1. Your recently completed affidavit of registration,

OR,

2. Correction of your former registration because of a postal notice that you have moved. If your residence address has not changed or if your move is temporary, please call or write the county clerk immediately.

You may vote in any election held 29 or more days after the date shown on the reverse side of this card provided your residence address has not changed.
Your name will appear on the index kept at the polls.

(Signature of Voter)

If a voter notification sent to a voter is returned by the postal authorities to the county clerk, and the postal authorities inform the county clerk that the voter has moved from the address to which the notification was sent, or that the voter is not known at the address to which the notification card was sent, or that the notification is undeliverable as addressed, the county clerk shall cancel the affidavit of registration upon receipt of that information from the postal authorities except for those voters entitled to vote pursuant to Section 217 of the Elections Code.

SEC. 4. Section 505 of the Elections Code is amended to read:

505. The Secretary of State shall print, or cause to be printed, the blank forms of the voter notification prescribed by Section 504. The Secretary of State shall supply such forms to the county clerk in quantities and at times requested by the county clerk.

SEC. 5. Section 608 of the Elections Code is repealed.

SEC. 6. Section 610 of the Elections Code is amended to read:

610. The county clerk, immediately following the cancellation of affidavits of registration pursuant to Section 801, shall compile a current list showing the number of voters, by party affiliations, in each Assembly, senatorial, congressional, and board of equalization

district located in whole or in part within the county and in each supervisorial district and city located within the county. The list shall be made available, upon request, to any elector residing within the county.

A copy of the list shall also be sent, within 10 days after its compilation, to the Secretary of State. The Secretary of State, on the basis of the lists transmitted to him by the county clerks, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each city, Assembly district, senatorial district, congressional district, board of equalization district, and supervisorial district in the state. A copy of this list shall be made available, upon request, to any elector of this state.

SEC. 7. Section 611.1 of the Elections Code is amended to read:

611.1. The county clerk shall compile an index, list, or file, by precinct, of all persons who voted in the previous statewide general election. This information shall be compiled in conjunction with the purge of voter registration files conducted pursuant to Article 6 (commencing with Section 800).

Information compiled pursuant to this section shall include that information which is required to appear in the index as set forth in Section 600.

Any person, candidate, or committee who is entitled to obtain a copy of any information contained in this article shall, upon written request to the clerk, be entitled to obtain the index, list, or file compiled pursuant to this section. The clerk may require the payment of a fee not to exceed the cost of duplicating the information or providing the tape as a condition to furnishing the information contained in this section.

If the county clerk uses data-processing equipment, he or she shall make the index available on a data-processing tape file on request. The county clerk shall be required to retain this file until the next November general election in an even-numbered year has been conducted.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed.

SEC. 8. Section 613 is added to the Elections Code, to read:

613. The Secretary of State shall, upon the request of a county clerk, compile, from the information furnished by the county clerks pursuant to Section 607, a file of potential duplicate voter registrations. The county clerk may immediately cancel those voter registrations which, upon investigation, are determined to be duplicates. The voter registration bearing the later date shall remain in effect.

SEC. 9. Section 701 of the Elections Code is amended to read:

701. The county clerk shall cancel the registration in the following cases:

(a) At the request of the person registered. The request shall either be in writing signed by the person registered or the person shall personally make the request in the office of the county clerk.

(b) When the mental incompetency of the person registered is legally established as provided in Sections 707.5, 707.6, and 707.7.

(c) Upon proof that the person is presently imprisoned or on parole for conviction of a felony.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to the provisions of Article 6 (commencing with Section 800).

(g) Upon receipt of any mailing returned by the postal service as undeliverable.

(h) Upon official notification that the voter is registered to vote in another county or state.

A blank affidavit of registration shall immediately be mailed to the address from which a cancellation is effected pursuant to subdivision (g).

SEC. 9.5. Section 701 of the Elections Code is amended to read:

701. The county clerk shall cancel the registration in the following cases:

(a) At the request of the person registered. The request shall either be in writing signed by the person registered or the person shall personally make the request in the office of the county clerk.

(b) When the mental incompetency of the person registered is legally established as provided in Sections 707.5, 707.6, 707.7, and 707.8.

(c) Upon proof that the person is presently imprisoned or on parole for conviction of a felony.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to the provisions of Sections 706, and Article 6 (commencing with Section 800).

(g) Upon receipt of any mailing returned by the postal service as undeliverable.

(h) Upon official notification that the voter is registered to vote in another county or state.

A blank affidavit of registration shall immediately be mailed to the address from which a cancellation is effected pursuant to subdivision (g).

SEC. 10. Section 704.5 is added to the Elections Code, to read:

704.5. The Secretary of State shall adopt regulations to facilitate the availability of death statistics from the State Department of Health Services. The data shall be used by county clerks in canceling the affidavit of registration of deceased persons.

SEC. 11. Section 706 of the Elections Code is repealed.

SEC. 12. Section 706.1 of the Elections Code is repealed.

SEC. 13. Section 706.2 of the Elections Code is repealed.

SEC. 14. Section 706.3 of the Elections Code is repealed.

SEC. 15. Section 800 of the Elections Code is amended to read:

800. (a) The county clerk shall conduct a preelection residency confirmation procedure as provided in this article. That procedure shall be initiated by mailing a nonforwardable postcard to each registered voter of the county preceding the direct primary election. Postcards mailed pursuant to this article shall be sent "Address Correction Requested, Return Postage Guaranteed," and shall be in substantially the following form:

"We are requesting your assistance in correcting the addresses of voters who have moved and have not reregistered.

1. If you still live at the address noted on this postcard, your voter registration will remain in effect and you may disregard this notice.

2. If the person named on this postcard is not at this address, please return this postcard to your mail carrier."

(b) The county clerk, at his or her discretion, shall not be required to mail a residency confirmation postcard pursuant to subdivision (a), to any voter who has voted at an election held within the last six months preceeding the start of the confirmation procedure.

SEC. 16. Section 800.1 is added to the Elections Code, to read:

800.1. (a) In any county in which an election is held between September 1 and December 30 of an odd-numbered year, the county clerk may, in lieu of mailing a postcard to each registered voter in the county as provided for in Section 800, include the return address of the county clerk's office on the outside portion of the sample ballot or sample ballot envelope mailed to the voter at the election, along with the statements "Address Correction Requested" and "Notice: if the person named on this sample ballot is not at this address, please return this sample ballot to your mail carrier."

(b) If elections are held on more than one date between September 1 and December 30 of the odd-numbered years and the territories covered by the elections do not overlap, the county clerk shall apply the provisions of subdivision (a) to each election held in the county, if the county clerk elects to follow the provisions of this section.

(c) If elections are held on more than one date between September 1 and December 30 of the odd-numbered years and the territories covered by the elections do overlap, the county clerk shall designate which elections shall be covered by the provisions of subdivision (a).

SEC. 17. Section 800.2 is added to the Elections Code, to read:

800.2. If a county adopts the provisions of Section 800.1, and the elections held between September 1 and December 30 of the odd-numbered years are not held throughout the county, the county clerk shall employ the provisions set forth in Section 800 in the portions of the county in which no elections are held between September 1 and December 30 of the odd-numbered years.

SEC. 18. Section 800.3 is added to the Elections Code, to read:

800.3. All address corrections and cancellations of affidavits of registration made pursuant to Sections 800.1 and 800.2 shall be reflected on the voter index as required by subdivision (a) of Section

607.

SEC. 19. Section 801 of the Elections Code is amended to read:

801. (a) Based on the postal notices on the returned residency confirmation postcards received pursuant to Section 800 or the sample ballot received pursuant to Section 800.1, the county clerk shall take the following actions:

(1) The affidavits of registration of persons whose residency confirmation postcards or sample ballots are returned by the post office as undeliverable and who have no forwarding address shall be canceled.

(2) The affidavits of registration of persons for whom forwarding addresses within the county are received shall be corrected to reflect the new address provided by the post office.

(3) The affidavits of registration of persons for whom forwarding addresses outside of the county are received shall be canceled. Such persons shall be sent a notice of the cancellation at their out-of-county address.

(b) Blank affidavits of registration shall immediately be mailed to the addresses from which voter registrations were canceled or changed pursuant to this section.

(c) All address corrections and cancellations of affidavits of registration made pursuant to this section shall be reflected on the voter index as required by subdivision (a) of Section 607.

SEC. 20. Section 803 of the Elections Code is amended to read:

803. Within 30 days of the mailing of postcards pursuant to subdivision (b) of Section 802, the county clerk shall take the following actions:

(a) Correct the address on the nonvoter's affidavit of registration if the nonvoter has moved to a different stated residence within the county.

(b) Cancel the affidavit of registration if the nonvoter has moved to an address outside the county. The nonvoter shall be sent a notice of the cancellation at his or her out-of-county residence.

(c) Cancel the affidavits of registration for all nonvoters for whom the nonvoter residency confirmation postcard is undeliverable.

Blank affidavits of registration shall immediately be mailed to the addresses for which the voter registrations were canceled or changed pursuant to this section.

The effective day of cancellation shall be the 30th day following the date the notice is mailed to the nonvoter. Upon such cancellations, an affidavit of registration shall immediately be mailed to the address at which such canceled nonvoters were registered. All address corrections and cancellations made pursuant to this section shall be reflected on the voter index within 60 days of the nonvoter residency confirmation mailing.

SEC. 21. Section 804 of the Elections Code is amended to read:

804. Before every election and on election day the county clerk shall do each of the following:

(a) Assign a sufficient number of qualified persons in the office of

the clerk to receive and verify claims of erroneous cancellations of affidavits of registration, and cause said affidavits to be immediately reinstated.

(b) Supply each polling place with a list of voters in the precinct whose affidavits of registration were canceled since the previous general election pursuant to this article.

At every election the clerk shall provide a page in the Roster of Voters for the signature, under oath, attesting to continuous residency in the precinct, of any voter whose affidavit may have been canceled because of erroneous postal notification. Canceled affidavits of registration of voters whose signatures appear on said roster page shall be reinstated by the clerk.

SEC. 22. Section 825 of the Elections Code is amended to read:

825. From moneys appropriated by the Legislature, the Controller shall reimburse counties for additional costs incurred by counties for purging voter registration files pursuant to Article 6, (commencing with Section 800).

The amount reimbursable to each county shall be determined by multiplying the statewide average cost per registered voter by the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 607. The statewide average cost per registered voter shall be determined by the Secretary of State based on the claims submitted for reimbursement for the 1978 purge of voter registration files, which cost shall not exceed ten cents ($0.10) per registered voter.

SEC. 23. Section 826 of the Elections Code is amended to read:

826. Any claim submitted to the Controller pursuant to this article shall state that the county had reimbursable costs and the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 607. The claims shall be made to the Controller by October 31 of the even-numbered year in which a primary and general election are held.

SEC. 24. Section 10007.5 of the Elections Code is repealed.

SEC. 25. Section 10010.1 of the Elections Code is repealed.

SEC. 26. Section 9.5 of this bill incorporates amendments to Section 701 of the Elections Code proposed by both this bill and AB 9. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 701 of the Elections Code, and (3) this bill is enacted after AB 9, in which case Section 9 of this bill shall not become operative.

SEC. 27. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 821

An act to amend Sections 23502, 23503, and 23521.5 of the Elections Code, relating to elections.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 23502 of the Elections Code is amended to read:

23502. This part shall apply to all districts and agencies whose principal acts so provide. However, the provisions of this part requiring the county clerk to conduct elections shall apply to all resident voting districts and agencies, and, at the discretion of the county clerk, may apply to landowner voting districts, notwithstanding any other provision of law.

Where the provisions of this part conflict with the provisions of the principal act, the provisions of this part shall apply and control.

This part shall not apply to the election of elective officers of the district upon formation of the district, except as to the term of office of such officers.

SEC. 2. Section 23503 of the Elections Code is amended to read:

23503. As used in this part, unless the context otherwise requires:

(a) "District" or "agency" means any district or agency of the type designated by and formed pursuant to the provisions of any principal act which incorporates this part.

(b) "Governing body" means the board of directors of a district or agency or the board or body which governs the activities of the district or agency.

(c) "Principal act" means the law providing for the creation of a particular district or agency or type of district or agency.

(d) "Supervising authority" means the board of supervisors of the county in which is situated all or most of the land of a district.

(e) "Secretary" means the secretary of the governing body or a person designated by him to perform a duty of the secretary.

(f) "Affected county" means a county in which any land of the district or agency is situated.

(g) "County clerk" means the registrar of voters or, if there is none, the county clerk of an affected county.

(h) "Elective office" means any office which may, under the principal act of the district or agency, be filled by way of an election.

(i) "Elective officer" means "elective officer" as defined by the principal act of each district or agency or if not defined, any officer of a district or agency holding an office which can be filled by election.

(j) "Voter" means voter or elector as respectively defined in the principal act of each district or agency.

(k) "General district election" means an election held pursuant to the provisions of this part.

(*l*) "Director" means a member of the governing body.

(m) "Landowner voting district" means a district whose principal act requires an elector to be an owner of land located within the district.

(n) "Principal county" means the county in which all the land in the district or agency is situated, or if the district or agency is situated in more than one county, the county in which the greatest portion of the land in the district or agency is situated.

(o) "Resident voting district" means any district other than a landowner voting district.

SEC. 3. Section 23521.5 of the Elections Code is amended to read:

23521.5. Notwithstanding any other provision of law, in any district or agency election, if nomination papers for an incumbent elective officer of a district are not filed by 5 p.m. on the 88th day before the general district election, any person other than the incumbent shall have until 5 p.m. on the 83rd day before the election to file nomination papers for the elective office.

This section is not applicable where there is no incumbent to be elected.

SEC. 4. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 822

An act to amend Sections 14412 and 14413 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 14412 of the Welfare and Institutions Code is amended to read:

14412. (a) The enrollment of a Medi-Cal beneficiary in the prepaid health plan shall not be terminated except for loss of

eligibility, for good cause as determined by the department, or at the request of the beneficiary.

(b) Enrollment shall be terminated at the request of the Medi-Cal beneficiary, to the extent required by federal law.

(c) Any Medi-Cal beneficiary enrolled in a prepaid health plan who would remain eligible for Medi-Cal program benefits for three additional months pursuant to Section 14005.8 shall remain enrolled in the prepaid health plan and shall not receive a Medi-Cal card unless disenrollment is requested by the beneficiary, and the request is submitted in accordance with state and federal law.

(d) It is the intent of the Legislature that the department shall develop such policies and procedures to maximize continuity of care for persons enrolled in prepaid health plans and to insure that the eligibility determination or redetermination process does not unnecessarily interfere with such enrollment or create gaps in the delivery of health services.

SEC. 2. Section 14413 of the Welfare and Institutions Code is amended to read:

14413. (a) Requests for disenrollment shall be made to an authorized representative of the prepaid health plan or to the department. All requests for disenrollment, except those submitted pursuant to Sections 14303.1(c), 14303.2(c), or 14409(b)(5), or for other good cause as determined by the director, shall be processed through the prepaid health plan's grievance procedure as approved by the department. Disenrollment requests received by the prepaid health plan shall be submitted to the department, on standard disenrollment forms prescribed by the department, within a reasonable time following the date of such signed request, as determined by the director, to permit the department to terminate enrollment effective the beginning of the first calendar month following a full calendar month after the request is made.

(b) All applications for disenrollment shall be processed by the department, and where Medi-Cal eligibility continues or Medi-Cal coverage is extended under Section 14005.8, a Medi-Cal card shall be issued effective not later than the beginning of the first calendar month following a full calendar month after the request for disenrollment is made. Submittal of a request for disenrollment for processing through the grievance procedure of a prepaid health plan shall not be deemed to infringe on this entitlement.

CHAPTER 823

An act to amend, repeal, and add Section 65950 of the Government Code, relating to development projects.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 65950 of the Government Code is amended to read:

65950. Any public agency which is the lead agency for a development project for which an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code shall approve or disapprove the project within one year from the date on which an application requesting approval of the project has been received and accepted as complete by that agency. If a negative declaration is prepared or if the project is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code, the development project shall be approved or disapproved within six months from the date on which an application requesting approval of the project has been received and accepted as being complete by that agency, unless the project proponent requests an extension of the time limit. As specified in Sections 21100.2 and 21151.5 of the Public Resources Code, the period specified in those sections shall also begin on that date.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 2. Section 65950 is added to the Government Code, to read:

65950. Any public agency which is the lead agency for a development project shall approve or disapprove the project within one year from the date on which an application requesting approval of the project has been received and accepted as complete by that agency. As specified in Sections 21100.2 and 21151.5 of the Public Resources Code, the period specified in those sections shall also begin on that date.

This section shall become operative on January 1, 1990.

SEC. 3. It is the intent of the Legislature that the amendments to Section 65950 of the Government Code made by Section 1 of this act apply to development projects for which applications requesting approval of the projects have been accepted as complete by public agencies on or after January 1, 1984.

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

CHAPTER 824

An act to add Section 30419 to the Public Resources Code, relating to coastal resources.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 30419 is added to the Public Resources Code, to read:

30419. The Department of Boating and Waterways is the principal state agency for evaluating the economic feasibility of any boating facility to be developed within the coastal zone.

If the economic viability of a boating facility becomes an issue in a coastal development permit matter or in a local coastal program or any amendment thereto, the commission shall request the Department of Boating and Waterways to provide comment, including, but not limited to, the analysis of costs associated with conditions of approval. In cases where the Department of Boating and Waterways desires to make any comment, it shall be made within 30 days of the commission's request. The commission shall include the comment in its decision regarding a coastal development permit or local coastal program or any amendment thereto.

CHAPTER 825

An act to add Sections 4003.5, 9258.5, and 9270 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 4003.5 is added to the Vehicle Code, to read:

4003.5. Upon payment of the fee specified in Section 9258.5, the department shall issue a one-trip permit authorizing a new trailer or semitrailer which has never been registered in any state, to be moved or operated laden in this state for not more than five days as part of one continuous trip from the place of manufacture outside this state to a place within this state where the vehicle will be offered for sale.

SEC. 2. Section 9258.5 is added to the Vehicle Code, to read:

9258.5. A fee of twenty-five dollars ($25) shall be paid to the department for each one-trip permit issued pursuant to Section 4003.5.

SEC. 3. Section 9270 is added to the Vehicle Code, to read:

9270. The department may charge a service fee of fifteen dollars ($15), in addition to other fees payable under this code, for the completion of an initial registration or transfer of registration of a commercial vehicle within 72 hours after receipt of a complete and proper registration application. This service shall be available only at the department's headquarters office in Sacramento.

This section shall become operative on July 1, 1984.

CHAPTER 826

An act to amend Section 6253 of the Government Code, relating to public records.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 6253 of the Government Code is amended to read:

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of such bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Secretary of State
State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Department of Health Services
Employment Development Department

State Department of Social Services
State Department of Mental Health
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Quality Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District.

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in subdivision (a).

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 827

An act to add Section 65946 to the Government Code, relating to land use.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 65946 is added to the Government Code, to read:

65946. (a) The Office of Planning and Research shall develop a consolidated project information form to be used by applicants for development projects. This form shall provide for sufficient information to allow state agencies to determine whether or not the project will be subject to the requirement for a permit from the agency.

(b) Applicants for development projects may submit the form provided by subdivision (a) to the Office of Planning and Research for distribution to state agencies which have permit responsibilities for development projects. The Office of Planning and Research shall send copies of the form to such agencies within three days of receipt.

(c) Within 30 days of receipt of the form, each agency shall notify the Office of Planning and Research in writing whether or not a permit from that agency may be required and it shall send the Office of Planning and Research the appropriate permit application forms.

(d) Within 15 days of receipt of the completed form from such agencies, the Office of Planning and Research shall notify the applicant for a development project in writing of any permits required for the project specified, and it shall send the applicant the appropriate permit application forms received from the state agencies.

(e) The Office of Planning and Research may charge an applicant for a development project a fee not to exceed the estimated reasonable cost of providing the services performed pursuant to this section. Before levying or changing a fee, the Office of Planning and Research shall adopt or amend regulations pursuant to the Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The Office of Planning and Research shall make available to the public upon request data indicating the amount of cost, or estimated cost, required to provide the service and the revenue sources anticipated to provide the service, including general or special fund revenues.

CHAPTER 828

An act to amend Section 99 of the Revenue and Taxation Code, relating to property tax revenues.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 97, or the annual tax increment determined pursuant to Section 98, for local agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation or a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 54790.3 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 54790.3 in the allocation of property tax revenue determined pursuant to Section 96 or 97 for each local agency whose service area or service responsibilities would be altered by the incorporation or formation.

(3) For each fiscal year thereafter, the property tax allocation made to the entity of government pursuant to Section 54790.3 of the Government Code shall be adjusted by the annual tax increment pursuant to Section 98.

(b) Upon the filing of an application or a resolution pursuant to the Municipal Organization Act (Part 2 (commencing with Section 35000) of Division 2 of Title 4 of the Government Code) or the District Reorganization Act of 1965 (Part 1 (commencing with Section 56000) of Division 1 of Title 6 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. The notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory which is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96 or 97, and Section 98, notwithstanding the provisions of Section 98.6.

(3) Within 45 days of notice of the filing of an application or

resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) which is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. The negotiation period shall not exceed 30 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 35152, 54791, or 56198 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the 30-day negotiation period, present resolutions adopted by each county and city whereby each county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4) to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located.

The notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4), (5), and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among the local agencies. Notwithstanding any other provision of law, no jurisdictional change shall become effective until each county and city included in the negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a).

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. Such agreement may be revised from time to time by the parties subject to such agreement.

(e) Except as otherwise provided in subdivision (f), for the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and thereafter for those local agencies which were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978 but on or before January 1, 1979. The local agencies shall determine by resolution the amount of property tax revenues to be exchanged between and among such affected agencies and notify the auditor of such determination.

(f) For the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and thereafter, for a city incorporation which was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except,

however, in the event that the final commission report did not specify the amount of property tax revenue projected for such incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and thereafter for incorporations approved by the voters in June 1979.

(g) For the purpose of the computations made pursuant to this section, in the case of a district formation which was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1978, but before January 1, 1979, the amount of property tax to be allocated to such district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(h) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 97, or the annual tax increment determined pursuant to Section 98, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

(1) The governing body of each district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among the affected jurisdictions. The determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that the affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution, within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(i) For purposes of subdivision (h), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of the service area. The community college district and the county shall

negotiate the amount, if any, of property tax revenues to be exchanged. In the negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

SEC. 2. The amendments to Section 99 of the Revenue and Taxation Code by Section 1 of this act do not constitute a change in, but are declaratory of, existing law.

CHAPTER 829

An act to amend Sections 22754 and 22810 of the Government Code, relating to the Public Employees' Medical and Hospital Care Act.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid

outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major medical or other comprehensive benefit plans.

(e) "Annuitant" means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in subdivision (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 or similar provisions of any other state retirement system.

(3) Any person who, at the time of separation from employment because of disability, was enrolled in a health benefits plan and who enters a rehabilitation program under Section 139.5 of the Labor Code and retires for disability within 120 days of termination of the rehabilitation program.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(i) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

SEC. 2. Section 22810 of the Government Code is amended to read:

22810. An employee or annuitant may, under eligibility rules as the board may by regulation prescribe, enroll in an approved health benefits plan, either as an individual or for self and family, except that an employee of a contracting agency, or an annuitant who retired while an employee or is the beneficiary of an employee, may enroll only in a health benefits plan for which the board has contracted. With respect to state officers and employees, the regulations shall provide that every employee or annuitant enrolled in a health benefits plan shall be enrolled in a major medical plan or shall provide for inclusion of major medical benefits in health benefit plans. The regulations may provide for the exclusion of employees on the basis of the nature and type of their employment or conditions pertaining thereto, but not limited to, short-term appointments, seasonal or intermittent employment, and employment of a like nature, but no employee or group of employees shall be excluded solely on the basis of the hazardous nature of the employment. Any enrollment shall authorize the deduction of the contributions required under this part from the employee's or annuitant's salary or retirement allowance.

Any annuitant who, at the time he became an annuitant was enrolled in a health benefits plan, may continue his enrollment as provided by regulations of the board, without discrimination as to premium rates or benefit coverage.

Any annuitant who becomes entitled to the survivor allowance under Section 21382 at age 62 and who was enrolled in a health benefits plan at the death of the member on whose account the survivor allowance is payable may enroll in a health benefits plan without discrimination as to premium rates or benefit coverage.

In the case of the death of an employee after application has been filed for coverage of family members but prior to the effective date of coverage, family members shall be deemed to have been covered on the date of the death of the employee, and if one of the family members is an annuitant he shall be enrolled as if the coverage applied for were continued without discrimination as to premium rates or benefit coverage.

The board shall, by rule and regulation, make whatever provisions it deems necessary to eliminate or minimize the impact of adverse selection which would affect any plans approved or contracted for, because of enrollment of annuitants.

CHAPTER 830

An act to add and repeal Section 1346.5 of the Health and Safety Code, and to amend Section 740 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 1346.5 is added to the Health and Safety Code, to read:

1346.5. If the commissioner determines that an entity purporting to be a health care service plan exempt from the provisions of Section 740 of the Insurance Code is not a health care service plan, the commissioner shall inform the Department of Insurance of that finding. However, if the commissioner determines that an entity is a health care service plan, the commissioner shall prepare and maintain for public inspection a list of those persons or entities described in subdivision (a) of Section 740 of the Insurance Code, which are not subject to the jurisdiction of another agency of this or another state or the federal government and which the commissioner knows to be operating in the state. There shall be no liability of any kind on the part of the state, the commissioner, and employees of the Department of Corporations for the accuracy of the list or for any comments made with respect to it. Additionally, any solicitor licensed by the Department of Corporations who advertises or solicits health care service plan coverage in this state described in subdivision (a) of Section 740 of the Insurance Code, which is provided by any personal entity described in subdivision (c) of that section, and where such coverage does not meet all pertinent requirements specified in the Insurance Code, and which is not provided or completely underwritten, insured or otherwise fully covered by a health care service plan, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, all financial and operational information relative to the content and scope of the plan and, specifically, as to the lack of plan coverage.

This section shall remain in effect until January 1, 1985, and on that date is repealed unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

SEC. 2. Section 740 of the Insurance Code is amended to read:

740. (a) Notwithstanding any other provision of law, and except as provided herein, any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to

be subject to the jurisdiction of the department unless the person or other entity shows that while providing such services it is subject to the jurisdiction of another agency of this or another state or the federal government.

(b) A person or entity may show that it is subject to the jurisdiction of another agency of this or another state or the federal government by providing to the commissioner the appropriate certificate or license issued by the other governmental agency which permits or qualifies it to provide those services for which it is licensed or certificated.

(c) Any person or entity which is unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government, shall submit to an examination by the commissioner to determine the organization and solvency of the person or the entity, and to determine whether or not such person or entity is in compliance with the applicable provisions of this code.

(d) Any person or entity unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government shall be subject to all appropriate provisions of this code regarding the conduct of its business.

(e) The department shall prepare and maintain for public inspection a list of those persons or entities described in subdivision (a) which are not subject to the jurisdiction of another agency of this or another state or the federal government and which the department knows to be operating in this state There shall be no liability of any kind on the part of the state, the department, and its employees for the accuracy of such list or for any comments made with respect to it.

(f) Any administrator licensed by the department who advertises or administers coverage in this state described in subdivision (a), which is provided by any person or entity described in subdivision (c), and where such coverage does not meet all pertinent requirements specified in this code and which is not provided or completely underwritten, insured or otherwise fully covered by an admitted life or disability insurer, hospital service plan or health care service plan, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, and any production agency licensed by the department involved in the transaction, all financial and operational information relative to the content and scope of the plan and, specifically, as to the lack of insurance or other coverage.

Any production agency obtaining knowledge of any coverage relative to the content and scope of a hospital service plan or health care service plan, as required under this subdivision, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, such knowledge regarding the content and scope of the plan and, specifically, as to the lack of insurance by an admitted carrier or other qualified plan.

(g) A health care service plan, as defined in Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and

Safety Code, shall not be subject to the provisions of this section.

(h) The department, until January 1, 1985, shall notify, in writing, the Commissioner of Corporations whenever it determines that a multiple employer trust qualifies as a health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

SEC. 3. The Department of Insurance and the Department of Corporations shall, on or before January 1, of each year, until January 1, 1985, prepare and submit to the Chairmen, respectively, of the Senate Insurance, Claims and Corporations Committee, and the Assembly Finance and Insurance Committee, a report detailing the effectiveness of the enforcement of this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There are entities operating within this state which provide insurance coverage; however, they are not presently regulated. In order to protect the interests of consumers in this state, it is necessary that this act take effect immediately.

CHAPTER 831

An act to amend Section 28697 of, to add Section 28537 to, and to add Article 2.5 (commencing with Section 28585) to Chapter 11 of Division 22 of, the Health and Safety Code, relating to health and sanitation requirements.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 28537 is added to the Health and Safety Code, to read:

28537. "Open-air barbecue facility" means an unenclosed facility for barbecuing food which is operated by a restaurant.

SEC. 2. Article 2.5 (commencing with Section 28585) is added to Chapter 11 of Division 22 of the Health and Safety Code, to read:

Article 2.5. Open-Air Barbecue Facilities

28585. Except as otherwise provided in this article, open-air barbecue facilities shall not be subject to the provisions of this chapter.

28586. Notwithstanding the provisions of this chapter, neither the state department nor any city, county, or city and county shall require the enclosure of an open-air barbecue facility if the

appropriate enforcement officer, prescribed by Section 28690, determines that the barbecue facility meets all of the following requirements:

(a) The facility is operated on the same premises as, in reasonable proximity to, and in conjunction with a restaurant.

(b) All food waste and rubbish containing food waste is handled in accordance with the requirements of Section 28567.

(c) All food and beverages served at the open-air barbecue facility meet the requirements of Sections 28571 to 28580, inclusive.

(d) The facility is in compliance with the provisions of Article 6 (commencing with Section 28686).

(e) The multiuse utensils and equipment used in conjunction with the open-air barbecue facility are made of nontoxic materials, are constructed and maintained in a manner so they can be easily cleaned, and are kept clean and in good repair.

(f) Food and beverages served out of doors are dispensed from units approved by the enforcement officer. No other food may be prepared or stored in the out of doors, except for food cooked on the open-air barbecue unit.

(g) No live animals, birds, or fowl are kept or allowed in an area within 20 feet of any area where food or beverage is prepared, stored, kept, or served. This subdivision does not apply to guide dogs used by the blind, signal dogs used by deaf persons or persons whose hearing is impaired, or to service dogs used by physically handicapped persons or to dogs used by uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrolmen. As used in this subdivision, the terms "guide dog," "signal dog," and "service dog," shall have the meanings specified in Section 54.1 of the Civil Code.

(h) If the barbecue facility is a permanent structure, it is equipped with an impervious and easily cleaned floor surface that extends a minimum of five feet from the open-air barbecue facility on all open sides.

(i) The barbecue facility is located in an area reasonably protected from dust, as determined by the enforcement officer.

(j) The barbecue facility is not operated in, or out of, any motor vehicle or in any area or location that may constitute a fire hazard, as determined by the enforcement officer.

(k) Sanitary facilities, including, but not limited to, toilet facilities and handwashing facilities shall be available for use within 200 feet of the barbecue facility and shall comply with all of the provisions of this chapter. Sanitary facilities that do not meet the requirements of this chapter shall not be located closer to the barbecue facility than the sanitary facilities required to be provided by this section.

28587. No air pollution control district or air quality management district shall require the enclosure of an open-air barbecue facility if

the appropriate enforcement officer, prescribed by Section 28690, determines that the barbecue facility meets all of the requirements prescribed by Section 28586.

28588. Any facility operated pursuant to the provisions of this article shall be subject to the provisions of Section 28691. Any operator of any facility which initially meets the requirements of Section 28586 but which is subsequently found to be in violation of any of the provisions of that section shall be subject to the provisions of Section 28692.

SEC. 3. Section 28697 of the Health and Safety Code is amended to read:

28697. Notwithstanding the provisions of this chapter, prior to a city, county, or city and county requiring that the area where food is processed or dispensed be enclosed pursuant to this chapter, the local health department shall make a finding after a public hearing that such an enclosure is necessary for the protection of the public health and sanitation and such finding shall have been ratified by the legislative body of such local entity and shall have been concurred in by the State Director of Health Services.

This section shall not apply to an open-air barbecue facility subject to Article 2.5 (commencing with Section 28585).

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 832

An act to amend Section 16367 of, and to add Section 16367.8 to, the Government Code, relating to fiscal affairs.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 16367 of the Government Code is amended to read:

16367. (a) There is hereby established a block grant advisory task force, referred to in this article as the task force, which shall remain in existence until July 1, 1984.

(b) The membership of the task force shall be comprised of the following persons:

(1) The Chairperson of the Senate Committee on Finance.

(2) The Chairperson of the Assembly Committee on Ways and Means.

(3) The Director of Finance.

(4) Five persons appointed by the Senate Committee on Rules. Two of the persons appointed shall be registered with the majority political party of the membership of the Senate and one person appointed shall be registered with the largest minority political party of the membership of the Senate. One person shall be appointed who is disabled. Additionally, to the extent permitted by vacancies existing on or after January 1, 1984, two of the persons appointed shall be older persons, as defined by Section 9103 of the Welfare and Institutions Code, and may, but are not required to, be members of either the California Commission on Aging or the California Senior Legislature.

(5) Five persons appointed by the Speaker of the Assembly. Two of the persons appointed shall be registered with the majority political party of the membership of the Assembly and one person appointed shall be registered with the largest minority political party of the membership of the Assembly. Additionally, to the extent permitted by vacancies existing on or after January 1, 1984, two of the persons appointed shall be older persons, as defined by Section 9103 of the Welfare and Institutions Code, and may, but are not required to, be members of either the California Commission on Aging or the California Senior Legislature.

(6) Five persons appointed by the Governor. Two of the persons appointed shall be registered with the same political party as the Governor and one person appointed shall be registered with the same political party of the candidate who received the second highest number of votes for Governor in the last gubernatorial election. One person shall be appointed who is an American Indian.

Three of each of the five appointments to be made by the Speaker of the Assembly, the Senate Committee on Rules, and the Governor shall be members of the populations currently served by categorical programs or board members of private nonprofit community-based organizations currently serving categorical populations, or both. The appointing powers shall ensure that the interests of counties are represented on the task force and may appoint county representatives to three of the remaining positions. Each appointee shall be knowledgeable in the administration and operation of the programs consolidated into block grants. In addition, each appointee shall be selected on the basis of expertise in a substantive area covered by block grants, so that each area is represented. The appointing powers shall ensure that there is geographic balance in determining the composition of the task force. Each appointed member of the task force shall serve at the pleasure of the respective appointing power of the member. Appointments made pursuant to paragraphs (4), (5), and (6) shall be made within 30 days of the effective date of the statute which enacted this section, or in the case of an amendment to this subdivision, 30 days from the effective date

of the amendment.

(c) Within 30 days of the effective date of this article, the task force shall meet and elect a chairperson.

(d) The task force shall do all of the following:

(1) Gather information, provide communication outreach, and hold public hearings on program performance, service, population needs, delivery systems, and fiscal management.

(2) Solicit community input and gather information from organizations and community programs representing providers and consumers who are potential block grant fund recipients and hold public hearings on program performance, service, population needs, delivery systems, and fiscal management.

(3) Prepare recommendations for legislative policy deliberations no later than February 1, 1983, and February 1, 1984, which include all of the following subject items:

(A) Integration of block grant programs with existing state and local programs.

(B) Decisionmaking responsibility at both the state and local level, including involvement of community nonprofit agencies.

(C) Method of funding allocations.

(D) The coordination of the transfer of responsibility for administration of categorical programs from the federal to state government which shall include the transfer to the state of all information related to program management and categorical population needs.

(E) Proposed use of block grant funds to be received by the state, pursuant to the requirement of Section 1742(a) of the federal Omnibus Budget Reconciliation Act of 1981 or subsequent federal block grant legislation, including all of the following:

(i) A statement of goals and objectives.

(ii) Information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served.

(iii) The criteria and method established for the distribution of the funds, including details of how the distribution of funds will be targeted on the basis of need to achieve the purposes of the block grant funds and yearend reports regarding the expansion in which block grant funds were expended.

(F) As a special part of its 1983 and 1984 reports, the task force shall provide a detailed analysis of which level of government can perform the variety of administrative functions most effectively in relation to the needs of the population served. The reports shall include analyses on both a generalized as well as specific basis in relation to each block grant. Functions to be reviewed shall include, but not be limited to, planning, provider selection, contracts management, and fiscal as well as program monitoring and evaluation.

In preparation for these reports, the task force shall identify and consult with the communities, clients, and populations served by

each block grant in order to identify models of effective program administration. The task force shall solicit for collection correspondence that identifies effective models of program administration from community programs, clients and populations served by each block grant.

(G) Effective methods of monitoring state and local agency compliance with this article.

(H) Options and appropriate actions related to transferring funds between and within block grants.

SEC. 2. Section 16367.8 is added to the Government Code, to read:

16367.8. Any advisory agency, commission, or other entity established by any city, county, or special district relative to the application for or use of federal block grant funds shall include in its membership older persons, as defined by Section 9103 of the Welfare and Institutions Code, in such numbers as to proportionately reflect in the membership of the agency, commission, or other entity, as nearly as possible, the population of persons 60 years of age or older residing within the jurisdiction of the city, county, or special district as indicated in the most recent national decennial census. The older persons appointed pursuant to this section shall be drawn, where possible, from the membership of existing agencies, commissions, or other entities established by the city, county, or special district relative to the subject of aging.

CHAPTER 833

An act to add Article 4 (commencing with Section 14825) to Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to the California State Contracts Register.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. The Legislature finds and declares that it is the policy of the state to conserve and protect the revenues of the state generated by its citizens through efficient and prudent use of state funds in the process of procuring state agency needs. To further realize this policy, the Legislature finds and declares that it is in the best interest of the state to encourage increased participation and competition by all business firms in the state's economy. To this end, it is also the declared policy of the Legislature that all business firms in the state shall be given adequate notice of state contracting activities for all state procurements by regular publication of activities in a register entitled the "California State Contracts Register" and that such publication shall be made available at a

reasonable cost to any business firm, individual, or government entity so desiring such information.

SEC. 2. Article 4 (commencing with Section 14825) is added to Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 4. California State Contracts Register

14825. The Department of General Services shall publish, or shall cause to be published, the California State Contracts Register, describing therein contracts proposed by the state.

As used in this article, "contract" means an agreement entered into by a state agency for services, which term shall be construed to include contracts for construction or alteration of state-owned real property.

Provisions of this article shall not apply to contracts for entertainment by district agricultural associations or for their fair related events except that summaries of the types of fair related contracts shall be published in the California State Contracts Register at least twice each year.

14825.1. The California State Contracts Register shall be published not less than twice a month and shall include information deemed appropriate by the Department of General Services, and shall include all of the following:

(a) Contract identification number.

(b) A description of the contract to be performed.

(c) All deadlines for submitting bid proposals or other required steps in the contract process, including the location and estimated duration of the contract where appropriate.

(d) Any eligibility requirements and preferences.

(e) Department, name, and telephone number of the person or persons to contact for further bid and submittal information.

14826. In order to broaden subcontracting opportunities for small business, agencies shall maintain and provide, upon request to interested parties, the names and addresses of firms to whom requests for proposals or invitations to bid are to be issued in connection with all contracts for one hundred thousand dollars ($100,000) or more.

14827. State agencies shall develop procedures for assuring that proposed contract opportunities are published in the California State Contracts Register as required by this article.

14827.1. No state agency shall award a contract unless notice thereof has first been published in the California State Contracts Register.

14827.2. Every state agency shall furnish to the Department of General Services the information required by Section 14825.1 in sufficient time for it to be published in the California State Contracts Register, so as to give potential bidders not less than 10 working days' notice prior to the contract bid opening date. Agencies shall not

release invitations for bid or requests for proposals prior to publication in the California State Contracts Register.

14827.3. The Department of General Services may exempt a state agency from the requirement of advertising in the California State Contracts Register where the contract is necessary for the immediate preservation of life or state property, where the contract is with another state agency or local and where the Director of General Services determines that the state's best interest would be better served by an exemption. The Department of General Services may, likewise, exempt a class or classes of contracts, where it appears to be in the state's best interest to do so. The department will identify the exemptions and publish them prominently in each issue of the California State Contracts Register.

14828. All governmental contracting entities shall provide to the Department of General Services which shall maintain, for review by those desiring the information, all of the following:

(a) Names of contractors to whom specific contracts have been awarded.

(b) Contract procedures and requirements.

14829. The Department of General Services shall offer copies of the California State Contracts Register for sale, and the "price" thereof shall not exceed the amount necessary to pay all expenses incurred in its preparation and distribution.

14829.1. The Department of General Services may adopt rules and regulations consistent with the law for the purpose of carrying into effect this article.

14829.2. This article shall remain in effect until December 31, 1985, and as of that date is repealed, unless the Director of General Services determines that as of December 1, 1985, the programs established by this article are self-supporting and notifies the Joint Legislative Budget Committee of that determination.

CHAPTER 834

An act to amend Section 4024.2 of the Penal Code, relating to county jails.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 4024.2 of the Penal Code is amended to read:

4024.2. (a) Notwithstanding any other provision of law, the board of supervisors of any county may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to such facility may

perform 10 hours of labor on the public works or ways in lieu of one day of confinement.

As used in this section "labor on the public works and ways" means manual labor to improve or maintain public facilities, including but not limited to, streets, parks, and schools.

(b) The board of supervisors may prescribe reasonable rules and regulations under which such labor is to be performed and may provide that such persons wear clothing of a distinctive character while performing such work. As a condition of participating in a work release program, a person shall give his or her promise to appear for work by signing a notice to appear before the sheriff at a time and place specified in the notice. A copy of the notice shall be delivered to the person and a copy shall be retained by the sheriff. Any person who willfully violates his or her written promise to appear before the sheriff at the time and place specified in the notice is guilty of a misdemeanor.

(c) Nothing in this section shall be construed to require the sheriff or other such official to assign labor to a person pursuant to this section if it appears from the record that such person has refused to satisfactorily perform labor as assigned or has not satisfactorily complied with the reasonable rules and regulations governing such assignment.

A person shall be eligible for work release under this section only if the sheriff or other such official concludes that such person is a fit subject therefor.

(d) If the court sentences the defendant to a period of confinement of 15 days or more, it may restrict or deny his or her eligibility for the work release program.

(e) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each such person according to his or her ability to pay.

(f) This section shall remain in effect until January 1, 1990, and on that date is repealed.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 835

An act to add Article 5 (commencing with Section 3400) to Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, relating to fish and game.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Article 5 (commencing with Section 3400) is added to Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, to read:

Article 5. Management of Fish and Wildlife on Private Lands

3400. It is the policy of the state actively to encourage the propagation, conservation, and utilization of fish and wildlife resources on private land. The commission and the department may develop a private wildlife management area program for the implementation of this article.

3401. The commission may authorize the department to issue revocable, nontransferable licenses for the operation of wildlife management areas on any private lands it determines are suitable for the management and utilization of fish and wildlife resources. Any area licensed pursuant to this article shall not be available for use by the general public without the consent of the landholders.

3402. (a) A license for a wildlife management area may be issued to any landholder or combination of landholders upon approval by the commission of an application submitted by the landholder. As used in this article, "landholder" means any person who owns, leases, or has a possessory interest in land.

(b) Each license application shall be accompanied by a nonrefundable fee in an amount established by the commission that is calculated to meet the department's costs in administering the program. The application shall be accompanied by a wildlife management plan and such other information about the proposed wildlife management area as may be required by the commission.

(c) An application for a license may be submitted by any number of landholders if all parcels to be included in the wildlife management area are contiguous and, in combination, are of a size suitable for the management of the species included in the wildlife management plan. The landholders shall designate one landholder who shall represent them in all dealings with the commission and the department. The designated landholder shall be responsible for the operation of the wildlife management area.

(d) A landholder who does not own the fee to the land may apply for a license pursuant to this article only if the owner or public

agency responsible for the management of the affected lands consents to the application.

3403. The commission may require all or a part of the boundaries of a wildlife management area to be posted.

3404. (a) The commission may adopt regulations necessary for the administration of this article.

(b) After notice and a hearing, the commission may revoke the license for any violation of any provision of this code or any regulations made pursuant thereto or for any violation of the terms of the license.

3406. (a) Upon approval of the wildlife management plan, the commission shall issue a license, which shall be valid for three calendar years, authorizing the taking of those species of fish, game birds, and game mammals designated in the plan, pursuant to the wildlife management plan and regulations of the commission for that wildlife management area. Regulations adopted pursuant to this section may supersede any provision of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation.

(b) The activities conducted pursuant to each wildlife management plan shall be reviewed annually by the department and reviewed annually by the commission at a public hearing. Each licensee shall annually submit information to the department about past activities and the activities intended to be conducted in the succeeding year. Any change to the wildlife management plan or the regulations applicable to the wildlife management area shall be proposed to the commission by the department or the licensee at the license review hearing.

3407. Any fish, bird, or mammal taken in a wildlife management area licensed pursuant to this article shall be marked for identification with a distinctive tag or seal issued by the department prior to being removed from the wildlife management area. Any fish, bird, or mammal so identified may be possessed and transported at any time during the period for which the tag or seal is valid. The fees for tags and seals shall be established by the commission in amounts calculated to meet the costs incurred by the department in administering this section.

3408. Any landholder who has paid the fee required by this article, who has a valid license issued pursuant to this article, and who is conducting activities pursuant to an approved wildlife management plan that could be licensed or permitted pursuant to another provision of this code shall be exempt from any requirement to obtain that other license or permit or to pay any other fee. This section shall not, however, be construed to exempt anyone from any requirement pertaining to hunting and sport fishing licenses and stamps.

3409. The department shall report annually on the program conducted pursuant to this article. The report shall include a listing of landholders participating in the program, the wildlife

management activities undertaken, the wildlife species managed, and harvest data. The report shall be submitted to the Speaker of the Assembly, the Chairman of the Senate Committee on Rules, and the chairmen of the policy committees in each house which have jurisdiction over the subject of this article.

CHAPTER 836

An act to amend Section 32121 of, and to add Section 32121.3 to, the Health and Safety Code, relating to hospital districts.

[Approved by Governor September 14, 1983 Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 32121 of the Health and Safety Code is amended to read:

32121. Each local hospital district shall have and exercise the following powers:

(a) To have and use a corporate seal and alter it at pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description within the limits of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To administer any trust declared or created for hospitals of the district, and received by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, and to perform such functions in respect to the legal affairs of the district as the board may direct; and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for such legal advice and assistance.

(g) To employ such officers and employees, including architects and consultants, as the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the hospital administrator, secretary and other officers and employees of any

such hospitals; to establish such offices as may be appropriate and to appoint board members or employees to those offices; to determine the number of and appoint all such officers and employees, and to fix their compensation, which officers and employees shall hold their offices or positions at the pleasure of the boards.

(i) To do any and all things which an individual might do which is necessary for and to the advantage of a hospital and a nurses' training school.

(j) To establish, maintain and operate one or more health facilities at any location within the hospital district's service area as stated in the state health plan.

(k) To do any and all other acts and things necessary to carry out the provisions of this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs and such other health care provider groups and organizations as are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the hospital district.

(p) To transfer, without consideration for operation and maintenance, any part of its assets to one or more nonprofit corporations which have directors who are appointed by the board of directors of the hospital district and who are all residents of the district. This subdivision shall not invalidate or affect any transfers made prior to January 1, 1984, pursuant to this subdivision.

SEC. 2. Section 32121.3 is added to the Health and Safety Code, to read:

32121.3. (a) Notwithstanding any other provision of law, a hospital district, or any affiliated nonprofit corporation upon a finding by the board of directors of the district that it will be in the best interests of the public health of residents of the district and in order to obtain a licensed physician and surgeon to practice in the district, may upon a four-fifths vote of the board do any of the following:

(1) Guarantee to a physician and surgeon a minimum income for a period of no more than 18 months from the opening of such physician's practice.

(2) Guarantee purchases of necessary equipment by the physician and surgeon up to a maximum commitment equal to one-half the total amount of the estimated income guarantee provided in paragraph (1).

(3) Provide reduced rental rates of office space in any building

owned or leased by the district or any of its affiliated entities, for a term of no more than 18 months.

(b) Any amounts paid to or on behalf of a physician and surgeon under subdivision (a), including the amount of any rental discounts, shall be repaid to the guarantor no later than five years after the final date on which any such payments are made, with or without interest.

(c) Any provision in a contract betweem a physician and surgeon and a hospital district or affiliated nonprofit corporation as a result of the authorization pursuant to subdivision (a) which imposes as a condition any requirement that the patients of the physician and surgeon, or a quota of the patients of the physician and surgeon, only be admitted to a specified hospital is void. In the event of a default by the physician and surgeon in repayment of the obligation specified in subdivision (b), the hospital district or affiliated nonprofit corporation shall be entitled to attorney's fees expended to collect the obligation and to all other rights and remedies of a general creditor.

(d) The Legislature finds that this section is necessary to assist district hospitals to attract qualified physicians to practice in these hospitals, and that the health and welfare of the residents in hospital districts require this legislation. The provisions of this section shall apply only to hospital districts which maintain only hospitals with less than 200 beds.

CHAPTER 837

An act to amend Sections 3807 and 3822 of, and to add Sections 3822.1 and 3822.2 to, the Public Resources Code, relating to geothermal resources, and making an appropriation therefor.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983.]

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

SECTION 1. Section 3807 of the Public Resources Code is amended to read:

3807. "Local jurisdiction" means any city, county, district, or unit of Indian government, or any combination thereof formed for the joint exercise of any power.

SEC. 2. Section 3822 of the Public Resources Code is amended to read:

3822. (a) Thirty percent of the revenues received and deposited in the Geothermal Resources Development Account shall be available for expenditure by the State Energy Resources Conservation and Development Commission as grants to local jurisdictions having geothermal resources without regard to fiscal year.

(b) No local jurisdiction shall be eligible to apply for a grant pursuant to this section unless its governing body approves the application by resolution.

(c) Each recipient of a grant made pursuant to this section shall establish for deposit of such revenues an account or fund separate from the other accounts and funds of the recipient, and may expend such revenues only for the purposes specified in this chapter.

(d) The State Energy Resources Conservation and Development Commission shall make grants pursuant to this section irrespective of whether a local jurisdiction is a county of origin.

(e) Any of the revenues that are not disbursed as grants pursuant to this section during the fiscal year received shall be retained in the account and may be disbursed as grants pursuant to this section in succeeding fiscal years.

SEC. 3. Section 3822.1 is added to the Public Resources Code, to read:

3822.1. Notwithstanding any other provision of law, commencing with the 1984–85 fiscal year and in each fiscal year thereafter, any revenues not granted pursuant to Section 3822 remaining in the Geothermal Resources Development Account and any revenues expected to be received and disbursed during the 1984–85 fiscal year and in each fiscal year thereafter shall be made a part of the Governor's Budget. The State Energy Resources Conservation and Development Commission shall submit to the Legislature by April 1 of each year a list of projects, each selected and prioritized by the State Energy Resources Conservation and Development Commission pursuant to Section 3822.

SEC. 4. Section 3822.2 is added to the Public Resources Code, to read:

3822.2. (a) Notwithstanding any other provision of law, the State Energy Resources Conservation and Development Commission may expend funds, from that portion of the Geothermal Resources Development Account used by the commission for grants, to provide direct technical assistance to local jurisdictions which are eligible for grants pursuant to Section 3822.

(b) The total of all amounts expended pursuant to this section shall not exceed 5 percent of all funds available under Section 3822 or one hundred thousand dollars ($100,000), whichever amount is lesser.

(c) In making expenditures under this section, the commission shall consider, but not be limited to a consideration of, all of the following:

(1) The availability of geothermal resources.

(2) The project definition and likelihood of success.

(3) Local needs and potential project benefits.

CHAPTER 838

An act to amend Sections 14836, 14837, 14838, 14839, and 14840 of, and to repeal Section 14841 of, the Government Code, relating to the Small Business Procurement and Contract Act.

[Approved by Governor September 14, 1983. Filed with Secretary of State September 14, 1983]

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

SECTION 1. Section 14836 of the Government Code is amended to read:

14836. (a) The Legislature hereby declares that it serves a public purpose, and it is of benefit to the state, to promote and facilitate the fullest possible participation by all citizens in the affairs of the State of California in every possible way. It is also essential that opportunity is provided for full participation in our free enterprise system by small business enterprises.

(b) Further, it is the declared policy of the Legislature that the state should aid, counsel, assist, and protect, to the maximum extent possible, the interests of small business concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the state be placed with such enterprises.

SEC. 2. Section 14837 of the Government Code is amended to read:

14837. As used in this chapter:

(a) "Department" means the Department of General Services.

(b) "Director" means the Director of General Services.

(c) "Small business" means a business, in which the principal office is located in California, and the officers of such business are domiciled in California, which is independently owned and operated, and which is not dominant in its field of operation.

In addition to the foregoing criteria the director, in making a detailed definition, shall use dollar volume of business as a criterion. The maximum dollar volume which a small business may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries. In addition, when the character of any given industry so requires, the director may consider financial, employee, and contractor arrangements of any applicant seeking classification under the definition. The director shall exercise his or her best judgment that both the raw and finished material supplier arrangements of the successful bidder shall not circumvent the intent of this chapter, and the director may take account of other relevant factors as determined by regulation.

SEC. 3. Section 14838 of the Government Code is amended to read:

14838. In order to facilitate the participation of small business in state procurement and in construction contracts under the Office of the State Architect or other state agencies which contract for the construction (including alteration, demolition, repair, or improvement) of state facilities, the directors of General Services and of such other agencies, each within their respective areas of responsibility, shall do all of the following:

(a) Establish goals, consistent with those established by the Office of Small and Minority Business, for the extent of participation of small businesses in state procurement and in construction contracts.

(b) Provide for small business preference in construction or the procurement of goods where responsibility and quality are equal. Such preference to small business shall be 5 percent for the lowest responsible bidder meeting specifications. However, the small business preference shall not exceed fifty thousand dollars ($50,000) for any bid.

(c) Give special consideration to small businesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses in their preparation and submission of the information requested in Section 14310.

(e) Under the authorization granted in Section 14311, make awards, whenever feasible, to small business bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business contractor to qualify to bid on such subprojects.

SEC. 4. Section 14839 of the Government Code is amended to read:

14839. There is hereby established within the department the Office of Small and Minority Business. The duties of the office shall include:

(a) Compiling and maintaining a comprehensive bidders list of qualified small businesses.

(b) Coordinating with the Federal Small Business Administration, the Minority Business Development Agency, and the Office of Small Business Development of the Department of Economic and Business Development.

(c) Providing technical and managerial aids to small businesses by conducting workshops on matters in connection with government procurement and contracting.

(d) Assisting small business in complying with the procedures for bidding on state contracts.

(e) Working with appropriate state, federal, local, and private organizations and business enterprises in disseminating information on bidding procedures and opportunities available to small businesses.

(f) Making recommendations to the department and other state agencies for simplification of specifications and terms in order to increase the opportunities for small business participation.

(g) Develop, by regulation, such other programs and practices which are reasonably necessary to aid and protect the interest of small business in contracting with the state.

(h) The information furnished by each contractor requesting a small business preference shall be under penalty of perjury.

SEC. 5. Section 14840 of the Government Code is amended to read:

14840. The department shall submit an annual report to the Legislature no later than January 1 of each year commencing in 1975 containing the following information:

(a) Upon request, an up-to-date list of eligible small business bidders by general procurement and construction contract categories, noting company names and addresses.

(b) By general procurement and construction contract categories, statistics comparing the number of eligible small business bidders to the total number of qualified bidders.

(c) A list of small businesses which were awarded contracts under this chapter and the dollar amount of each contract.

(d) Any recommendations for changes in statutes or state policies to improve opportunities for small business.

SEC. 6. Section 14841 of the Government Code is repealed.

CHAPTER 839

An act to add Section 41604.5 to the Education Code, relating to school districts.

[Became law without Governor's signature. Filed with Secretary of State September 15, 1983.]

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

SECTION 1. Section 41604.5 is added to the Education Code, to read:

41604.5. Notwithstanding Section 41341, in order to avoid the cost of litigation to the state, the Superintendent of Public Instruction may negotiate a settlement with any local educational agency regarding prior year adjustments of miscellaneous funds received pursuant to Sections 41603 and 41604, if the funds were federal funds received in the 1979–80, 1980–81, or 1981–82 fiscal year as in-lieu of taxes due to the expansion of the Redwood National Park.

CHAPTER 840

An act to amend Sections 21627, 21637, and 21638 of the Business and Professions Code, relating to secondhand property.

[Became law without Governor's signature. Filed with Secretary of State September 15, 1983.]

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

SECTION 1. Section 21627 of the Business and Professions Code is amended to read:

21627. (a) As used in this article, "tangible personal property" includes, but is not limited to, all secondhand tangible personal property which bears a serial number or personalized initials or inscription or which, at the time it is acquired by the secondhand dealer, bears evidence of having had a serial number or personalized initials or inscription.

(b) "Tangible personal property" also includes, but is not limited to, the following:

(1) All tangible personal property, new or used, received in pledge as security for a loan by a pawnbroker or a secondhand dealer acting as a pawnbroker.

(2) All tangible personal property that bears a serial number or personalized initials or inscription which is purchased by a secondhand dealer or a pawnbroker or which, at the time of such purchase, bears evidence of having had a serial number or personalized initials or inscription.

(3) All personal property commonly sold by secondhand dealers which statistically is found through crime reports to the Attorney General to constitute a significant class of stolen goods. A list of such personal property shall be supplied by the Attorney General to all local law enforcement agencies. Such list shall be reviewed periodically by the Attorney General to insure that it addresses current problems with stolen goods.

(c) As used in this article, "tangible personal property" does not include any new goods or merchandise purchased from a bona fide manufacturer or distributor or wholesaler of such new goods or merchandise by a secondhand dealer. For the purposes of this article, however, a secondhand dealer shall retain for one year from the date of purchase, and shall make available for inspection by any law enforcement officer, any receipt, invoice, bill of sale or other evidence of purchase of such new goods or merchandise.

(d) As used in this article, "tangible personal property" does not include coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals. "Commercial grade ingots" means .99 fine ingots of gold, silver, or platinum, or .925 fine sterling silver art bars and medallions, provided that the ingots, art bars, and medallions are marked by the refiner or fabricator as to their assay

fineness.

SEC. 2. Section 21637 of the Business and Professions Code is amended to read:

21637. Nothing herein contained shall be deemed to excuse compliance with the provisions of any city, county, or city and county ordinance or any other state law covering the reporting, holding, or releasing of tangible personal property, not inconsistent with the provisions of this article, except that no city, county, or city and county, or any other state agency shall adopt holding or reporting requirements for transactions involving coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals.

SEC. 3. Section 21638 of the Business and Professions Code is amended to read:

21638. The provisions of this article shall not prohibit enactment, amendment, or enforcement by any city, county, or city and county of any local ordinance relating to a secondhand dealer which is not inconsistent with the provisions of this article, except that no city, county, or city and county, or any other state agency shall adopt holding or reporting requirements for transactions involving coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals.

CHAPTER 841

An act to add Section 13353.5 to the Vehicle Code, relating to evidence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 15, 1983.]

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

SECTION 1. Section 13353.5 is added to the Vehicle Code, to read:

13353.5. (a) In addition to the requirements of Section 13353, a person who chooses to submit to a breath test shall be advised before or after the test that the breath-testing equipment does not retain any sample of the breath and that no breath sample will be available after the test which could be analyzed later by the person or any other person.

(b) The person shall also be advised that, because no breath sample is retained, the person will be given an opportunity to provide a blood or urine sample that will be retained at no cost to the person so that there will be something retained that may be subsequently analyzed for the alcoholic content of the person's blood. If the person completes a breath test and wishes to provide a blood or urine sample to be retained, the sample shall be collected

and retained in the same manner as if the person had chosen a blood or urine test initially.

(c) The person shall also be advised that the blood or urine sample may be tested by either party in any criminal prosecution. The failure of either party to perform this test shall place no duty upon the opposing party to perform the test nor affect the admissibility of any other evidence of the alcoholic content of the blood of the person arrested.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide a constitutional procedure for administering the breath test in light of the decision of the court of appeal in People v. Trombetta (1983), 142 Cal. App. 3d 138, it is necessary that this act take effect immediately.

CHAPTER 842

An act to amend Sections 63, 224.1, 730.05, 1389.4, 1624, and 4352 of, to add Sections 226.12 and 5135.5 to, and to repeal Section 5129 of, the Civil Code, to amend Sections 353.5, 377, and 1443 of the Code of Civil Procedure, to amend Section 24606 of the Education Code, to amend Section 21371 of the Government Code, to amend Section 3524 of the Penal Code, to amend Sections 282, 300, 323, 351, 632, 640, 641, 645, 645.3, 650, 655, 704.2, 736, 1054, 1139, 1139.6, 1215, 1871, 2580, and 3012 of, to add Sections 328.3, 328.7, 372.5, and 1026 to, to add Division 1 (commencing with Section 1), Division 2 (commencing with Section 100), and Division 6 (commencing with Section 6100) to, to add Article 2.5 (commencing with Section 649.1) to Chapter 10 of Division 3 of, to repeal and add Chapter 11 (commencing with Section 660) of Division 3 of, and to repeal Sections 350, 1050, 1051, 1052, and 1053 and the General Provisions (commencing with Section 1 and including the title thereof), Division 1 (commencing with Section 20), Division 2 (commencing with Section 200), and

Division 2b (commencing with Section 296) of, the Probate Code, relating to probate law and procedure.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 15, 1983]

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

SECTION 1. Section 63 of the Civil Code, as amended by Assembly Bill 29 of the 1983–84 Regular Session, is amended to read:

63. An emancipated minor shall be considered as being over the age of majority for the following purposes:

(a) For the purpose of consenting to medical, dental, or psychiatric care, without parental consent, knowledge, or liability.

(b) For the purpose of the minor's capacity to do any of the following:

(1) Enter into a binding contract.

(2) Buy, sell, lease, encumber, exchange, or transfer any interest in real or personal property, including, but not limited to, shares of stock in a domestic or foreign corporation or a membership in a nonprofit corporation.

(3) Sue or be sued in his or her own name.

(4) Compromise, settle, arbitrate, or otherwise adjust a claim, action, or proceeding by or against the minor.

(5) Make or revoke a will.

(6) Make a gift, outright or in trust.

(7) Convey or release contingent or expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy, and consent to a transfer, encumbrance, or gift of marital property.

(8) Exercise or release his or her powers as donee of a power of appointment unless the creating instrument otherwise provides.

(9) Create for his or her own benefit or for the benefit of others a revocable or irrevocable trust.

(10) Revoke a revocable trust.

(11) Elect to take under or against a will.

(12) Renounce or disclaim any interest acquired by testate or intestate succession or by inter vivos transfer, including exercising the right to surrender the right to revoke a revocable trust.

(13) Make an election or an election and agreement referred to in Section 649.1 of the Probate Code.

(c) For the purpose of the minor's right to support by his or her parents.

(d) For purposes of the rights of the minor's parents or guardian to the minor's earnings, and to control the minor.

(e) For the purpose of establishing his or her own residence.

(f) For purposes of the application of Sections 300 and 601 of the Welfare and Institutions Code.

(g) For purposes of applying for a work permit pursuant to

Section 49110 of the Education Code without the request of his or her parents or guardian.

(h) For the purpose of ending all vicarious liability of the minor's parents or guardian for the minor's torts; provided, that nothing in this section shall affect any liability of a parent, guardian, spouse, or employer imposed by the Vehicle Code, or any vicarious liability which arises from an agency relationship.

(i) For the purpose of enrolling in any school or college.

SEC. 2. Section 224.1 of the Civil Code is amended to read:

224.1. When, in the case of a minor in the custody of a public agency or licensed adoption agency, it has been established that the persons whose consent to the adoption of such minor is required by law are deceased, an action may be brought by the State Department of Health or a licensed adoption agency requesting the court to make an order establishing that the requesting agency has the right to custody and control of the minor and the authority to place the minor for adoption. The agency bringing the action shall provide notice thereof in such form as shall be prescribed by the court to all known relatives of the minor up to and including the third degree of lineal and collateral consanguinity.

The provisions of this section shall not apply where a guardian of the person of the minor has been appointed pursuant to nomination by a will.

SEC. 3. Section 226.12 is added to the Civil Code, to read:

226.12. In the case of a stepparent adoption, the form prescribed by the State Department of Social Services for the consent of the natural parent shall contain substantially the following notice: "Notice to the natural parent who relinquishes the child for adoption: Adoption of your child by a stepparent does not affect the child's right to inherit your property or the property of other blood relatives."

SEC. 4. Section 730.05 of the Civil Code is amended to read:

730.05. (a) Unless the will otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be distributed in the manner set forth in Chapter 11 (commencing with Section 660) of Division 3 of the Probate Code.

(b) Income received by a trustee under subdivision (a) shall be treated as income of the trust.

(c) When an income beneficiary's right to income, including interest payable under Section 663 of the Probate Code, shall cease by death, or in any other manner, during the period of probate administration, income attributable to the period prior to the termination of such right, when subsequently received by the trustee, shall be equitably prorated between the beneficiary or his or her personal representative and the person next entitled to income by the terms of the trust instrument.

SEC. 5. Section 1389.4 of the Civil Code is amended to read:

1389.4. (a) Except as provided in subdivision (b), if an

appointment by will or by instrument effective only at the death of the donee is ineffective because of the death of an appointee before the appointment becomes effective and the appointee leaves issue surviving the donee, the surviving issue of such appointee shall take the appointed property in the same manner as the appointee would have taken had the appointee survived the donee except that the property shall pass only to persons who are permissible appointees, including those permitted under Section 1389.5. If the surviving issue are all of the same degree of kinship to the deceased appointee they take equally, but if of unequal degree then those of more remote degree take by representation as provided in Section 240 of the Probate Code.

(b) This section does not apply if either the donor or donee manifests an intent that some other disposition of the appointive property shall be made.

SEC. 6. Section 1624 of the Civil Code is amended to read:

1624. The following contracts are invalid, unless the same, or some note or memorandum thereof, is in writing and subscribed by the party to be charged or by his agent:

1. An agreement that by its terms is not to be performed within a year from the making thereof;

2. A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in Section 2794;

3. An agreement made upon consideration of marriage other than a mutual promise to marry;

4. An agreement for the leasing for a longer period than one year, or for the sale of real property, or of an interest therein; and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged;

5. An agreement authorizing or employing an agent, broker, or any other person to purchase or sell real estate, or to lease real estate for a longer period than one year, or to procure, introduce, or find a purchaser or seller of real estate or a lessee or lessor of real estate where such lease is for a longer period than one year, for compensation or a commission;

6. An agreement which by its terms is not to be performed during the lifetime of the promisor;

7. An agreement by a purchaser of real property to pay an indebtedness secured by a mortgage or deed of trust upon the property purchased, unless assumption of said indebtedness by the purchaser is specifically provided for in the conveyance of such property.

SEC. 7. Section 4352 of the Civil Code is amended to read:

4352. Every interlocutory and every final judgment declaring a marriage a nullity or dissolving a marriage shall contain the following notice:

Notice: Please review your will. A final judgment of dissolution or annulment of marriage revokes any disposition made by your will to

your former spouse. You should also review your insurance policies, retirement benefit plans, and other matters that you may want to change in view of the dissolution or annulment of your marriage.

SEC. 8. Section 4352 of the Civil Code is amended to read:

4352. Every judgment declaring a marriage a nullity or dissolving a marriage shall contain the following notice:

Notice: Please review your will. A judgment of dissolution or annulment of marriage revokes any disposition made by your will to your former spouse. You should also review your insurance policies, retirement benefit plans, and other matters that you may want to change in view of the dissolution or annulment of your marriage.

SEC. 9. Section 5129 of the Civil Code is repealed.

SEC. 10. Section 5135.5 is added to the Civil Code, to read:

5135.5. A marriage settlement which affects rights described in Section 141 of the Probate Code is to that extent governed by Chapter 1 (commencing with Section 140) of Part 3 of Division 2 of the Probate Code, and not by Section 5134 or 5135 of this code.

SEC. 11. Section 353.5 of the Code of Civil Procedure is amended to read:

353.5. If a person against whom an action may be brought dies before the expiration of the statute of limitations for the commencement of the action and the cause of action survives, an action against the surviving spouse of the person which is brought pursuant to Section 649.4 of the Probate Code may be commenced within four months after the death of the person or before the expiration of the statute of limitations which would have been applicable to the cause of action against the person if the person had not died, whichever occurs later.

SEC. 12. Section 377 of the Code of Civil Procedure is amended to read:

377. (a) When the death of a person is caused by the wrongful act or neglect of another, his or her heirs or personal representatives on their behalf may maintain an action for damages against the person causing the death, or in case of the death of such wrongdoer, against the personal representative of such wrongdoer, whether the wrongdoer dies before or after the death of the person injured. If any other person is responsible for any such wrongful act or neglect, the action may also be maintained against such other person, or in case of his or her death, his or her personal representatives. In every action under this section, such damages may be given as under all the circumstances of the case, may be just, but shall not include damages recoverable under Section 573 of the Probate Code. The respective rights of the heirs in any award shall be determined by the court. Any action brought by the personal representatives of the decedent pursuant to the provisions of Section 573 of the Probate Code may be joined with an action arising out of the same wrongful act or neglect brought pursuant to the provisions of this section. If an action be brought pursuant to the provisions of this section and a separate action arising out of the same wrongful act or neglect be brought

pursuant to the provisions of Section 573 of the Probate Code, such actions shall be consolidated for trial on the motion of any interested party.

(b) For the purposes of subdivision (a), "heirs" means only the following:

(1) Those persons who would be entitled to succeed to the property of the decedent according to the provisions of Part 2 (commencing with Section 6400) of Division 6 of the Probate Code,

(2) Whether or not qualified under paragraph (1), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, and parents. As used in this paragraph, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid, and

(3) Minors, whether or not qualified under paragraphs (1) or (2), if, at the time of the decedent's death, they resided for the previous 180 days in the decedent's household and were dependent upon the decedent for one-half or more of their support.

Nothing in this subdivision shall be construed to change or modify the definition of "heirs" under any other provision of law.

SEC. 13. Section 1443 of the Code of Civil Procedure is amended to read:

1443. Notwithstanding any other provision of law, all money or other property paid or delivered to the state or any officer or employee thereof under the provisions of Section 738, 1027, 1144, 1148, or 6800 of the Probate Code, or under any other section of the Probate Code, or any amendment thereof adopted after the effective date of this section, shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of this article, and shall be transmitted, received, accounted for, and disposed of, as provided in this title.

SEC. 14. Section 24606 of the Education Code is amended to read:

24606. The provisions of Part 5 (commencing with Section 220) of Division 2 of the Probate Code, when applicable, govern the distribution of the proceeds of any death benefit payable under this system. In applying Part 5 (commencing with Section 220) of Division 2 of the Probate Code with respect to proceeds payable to a beneficiary, membership in the system shall be considered as having the same status as an insurance policy issued after December 31, 1984.

SEC. 15. Section 21371 of the Government Code is amended to read:

21371. The provisions of Part 5 (commencing with Section 220) of Division 2 of the Probate Code, when applicable, govern the distribution of money payable under this system, including but not limited to retirement allowance accrued but not received prior to death and refund of member contributions. In applying Part 5 (commencing with Section 220) of Division 2 of the Probate Code with respect to benefits payable to a beneficiary, membership in the

system shall be considered as having the same status as an insurance policy issued after December 31, 1984.

SEC. 16. Section 3524 of the Penal Code is amended to read:

3524. (a) A prisoner may maintain an action for injury to such prisoner, including physical or mental injury, or both, caused by the wrongful or negligent act of a person during the course of the prisoner's participation in biomedical or behavioral research conducted pursuant to this title.

(b) In any action pursuant to this section, such damages may be awarded as under all of the circumstances of the case may be just.

(c) When the death of a prisoner is caused by the wrongful act or neglect of another, his or her heirs or personal representatives on their behalf may maintain an action for damages against the person causing the death, or if dead, such person's personal representatives.

(d) If an action arising out of the same wrongful act or neglect may be maintained pursuant to subdivision (c) for wrongful death to any such prisoner, the action authorized by subdivision (a) shall be consolidated therewith for trial on motion of any interested party.

(e) For the purposes of this section, "heirs" mean only the following:

(1) Those persons who would be entitled to succeed to the property of the decedent according to the provisions of Part 2 (commencing with Section 6400) of Division 6 of the Probate Code, and

(2) Whether or not qualified under paragraph (1), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, and parents. As used in this paragraph, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

SEC. 17. The General Provisions (commencing with Section 1 and including the title thereof) of the Probate Code are repealed.

SEC. 18. Division 1 (commencing with Section 20) of the Probate Code is repealed.

SEC. 19. Division 2 (commencing with Section 200) of the Probate Code is repealed.

SEC. 20. Division 2b (commencing with Section 296) of the Probate Code is repealed.

SEC. 21. Division 1 (commencing with Section 1) is added to the Probate Code, to read:

DIVISION 1. PRELIMINARY PROVISIONS AND DEFINITIONS

PART 1. PRELIMINARY PROVISIONS

1. This code shall be known as the Probate Code.

2. (a) The provisions of this code, insofar as they are substantially the same as previously existing provisions relating to the same

subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

(b) A provision of this code, insofar as it is the same in substance as a provision of the Uniform Probate Code, shall be so construed as to effectuate the general purpose to make uniform the law in those states which enact that provision of the Uniform Probate Code.

3. Except as otherwise specifically provided, Parts 1 (commencing with Section 100), 3 (commencing with Section 140), 4 (commencing with Section 200), and 5 (commencing with Section 220) of Division 2, and Division 6 (commencing with Section 6100), do not apply in any case where the decedent died before January 1, 1985, and such case continues to be governed by the law applicable to the case prior to January 1, 1985.

4. Division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.

5. If a notice or other communication is required by this code to be mailed by registered mail, the mailing of the notice or other communication by certified mail is deemed to be sufficient compliance with the requirements of law.

6. Unless the provision or context otherwise requires, these general provisions and rules of construction govern the construction of this code.

7. Whenever a reference is made to any portion of this code or to any other law, the reference applies to all amendments and additions heretofore or hereafter made.

8. Unless otherwise expressly stated:

(a) "Division" means a division of this code.

(b) "Part" means a part of the division in which that term occurs.

(c) "Chapter" means a chapter of the division or part, as the case may be, in which that term occurs.

(d) "Article" means an article of the chapter in which that term occurs.

(e) "Section" means a section of this code.

(f) "Subdivision" means a subdivision of the section in which that term occurs.

(g) "Paragraph" means a paragraph of the subdivision in which that term occurs.

9. The present tense includes the past and future tenses, and the future, the present.

10. The singular number includes the plural, and the plural, the singular.

11. If any provision or clause of this code or application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are severable.

12. "Shall" is mandatory and "may" is permissive.

PART 2. WORDS AND PHRASES DEFINED

20. Unless the provision or context otherwise requires, the words and phrases defined in this part govern the construction of Divisions 1 (commencing with Section 1), 2 (commencing with Section 100), and 6 (commencing with Section 6100).

21. "Account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account, and other like arrangement.

22. "Annulment of marriage" includes adjudication of nullity of marriage.

24. "Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

26. "Child" includes any individual entitled to take as a child under this code by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

28. As used in this code, "community property" means:

(a) Community property heretofore or hereafter acquired during marriage by a married person while domiciled in this state.

(b) All personal property wherever situated, and all real property situated in this state, heretofore or hereafter acquired during the marriage by a married person while domiciled elsewhere, that is community property, or a substantially equivalent type of marital property, under the laws of the place where the acquiring spouse was domiciled at the time of its acquisition.

(c) All personal property wherever situated, and all real property situated in this state, heretofore or hereafter acquired during the marriage by a married person in exchange for real or personal property, wherever situated, that is community property, or a substantially equivalent type of marital property, under the laws of the place where the acquiring spouse was domiciled at the time the property so exchanged was acquired.

32. "Devise," when used as a noun, means a disposition of real or personal property by will, and, when used as a verb, means to dispose of real or personal property by will.

34. (a) "Devisee" means any person designated in a will to receive a devise.

(b) In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

36. "Dissolution of marriage" includes divorce.

38. "Family allowance" means an allowance provided for in Chapter 4 (commencing with Section 6540) of Part 3 of Division 6.

40. "Financial institution" means a state or national bank, state or federal savings and loan association or credit union, or like organization.

44. "Heirs" means the persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

48. (a) Subject to subdivision (b), "interested person" includes any of the following:

(1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding.

(2) Any person having priority for appointment as personal representative.

(3) A fiduciary representing an interested person.

(b) The meaning of "interested person" as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.

50. "Issue" of a person means all his or her lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent.

54. "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this code by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

56. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or other entity.

58. "Personal property" does not include a leasehold interest in real property.

60. "Probate homestead" means a homestead provided for in Chapter 3 (commencing with Section 6520) of Part 3 of Division 6.

62. "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

66. As used in this code, "quasi-community property" means the following property, other than community property as defined in Section 28:

(a) All personal property wherever situated, and all real property situated in this state, heretofore or hereafter acquired by a decedent while domiciled elsewhere that would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time of its acquisition.

(b) All personal property wherever situated, and all real property situated in this state, heretofore or hereafter acquired in exchange for real or personal property, wherever situated, that would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time

the property so exchanged was acquired.

68. "Real property" includes a leasehold interest in real property.

70. "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

74. "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

78. "Surviving spouse" does not include any of the following:

(a) A person whose marriage to the decedent has been dissolved or annulled, unless, by virtue of a subsequent marriage, the person is married to the decedent at the time of death.

(b) A person who obtains or consents to a final decree or judgment of dissolution of marriage from the decedent or a final decree or judgment of annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless they (1) subsequently participate in a marriage ceremony purporting to marry each to the other or (2) subsequently live together as husband and wife.

(c) A person who, following a decree or judgment of dissolution or annulment of marriage obtained by the decedent, participates in a marriage ceremony with a third person.

(d) A person who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

80. "Totten trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account. In a Totten trust account, it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A Totten trust account does not include (1) a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account or (2) a fiduciary account arising from a fiduciary relation such as attorney-client.

82. "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, conservatorships, personal representatives, Totten trust accounts, custodial arrangements pursuant to the Uniform Gifts to Minors Act of any state, business trusts providing for certificates

to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

84. "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

88. "Will" includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

SEC. 22. Division 2 (commencing with Section 100) is added to the Probate Code, to read:

DIVISION 2. GENERAL PROVISIONS

PART 1. EFFECT OF DEATH OF MARRIED PERSON ON COMMUNITY AND QUASI-COMMUNITY PROPERTY

100. Upon the death of a married person, one-half of the community property belongs to the surviving spouse and the other half belongs to the decedent.

101. Upon the death of a married person domiciled in this state, one-half of the decedent's quasi-community property belongs to the surviving spouse and the other half belongs to the decedent.

102. (a) The decedent's surviving spouse may require the transferee of property in which the surviving spouse had an expectancy under Section 101 at the time of the transfer to restore to the decedent's estate one-half of the property if the transferee retains the property or, if not, one-half of its proceeds or, if none, one-half of its value at the time of transfer, if all of the following requirements are satisfied:

(1) The decedent died domiciled in this state.

(2) The decedent made a transfer of the property to a person other than the surviving spouse without receiving in exchange a consideration of substantial value and without the written consent or joinder of the surviving spouse.

(3) The transfer is any of the following types:

(A) A transfer under which the decedent retained at the time of death the possession or enjoyment of, or the right to income from, the property.

(B) A transfer to the extent that the decedent retained at the time of death a power, either alone or in conjunction with any other person, to revoke or to consume, invade, or dispose of the principal for the decedent's own benefit.

(C) A transfer whereby property is held at the time of the decedent's death by the decedent and another with right of survivorship.

(b) Nothing in this section requires a transferee to restore to the decedent's estate any life insurance, accident insurance, joint

annuity, or pension payable to a person other than the surviving spouse.

(c) All property restored to the decedent's estate under this section belongs to the surviving spouse pursuant to Section 101 as though the transfer had not been made.

103. Except as provided by Section 224, if a husband and wife die leaving community or quasi-community property and it cannot be established by clear and convincing evidence that one spouse survived the other:

(a) One-half of the community property and one-half of the quasi-community property shall be administered upon or distributed, or otherwise dealt with, as if one spouse had survived and as if that half belonged to that spouse.

(b) The other half of the community property and the other half of the quasi-community property shall be administered upon or distributed, or otherwise dealt with, as if the other spouse had survived and as if that half belonged to that spouse.

104. Notwithstanding Section 100, community property held in a revocable trust described in Section 5113.5 of the Civil Code is governed by the provisions, if any, in the trust for disposition in the event of death.

PART 2. SURVIVING SPOUSE'S RIGHT IN CALIFORNIA REAL PROPERTY OF NONDOMICILIARY DECEDENT

120. If a married person dies not domiciled in this state and leaves a valid will disposing of real property in this state which is not the community property of the decedent and the surviving spouse, the surviving spouse has the same right to elect to take a portion of or interest in such property against the will of the decedent as though the property were situated in the decedent's domicile at death.

PART 3. CONTRACTUAL ARRANGEMENTS RELATING TO RIGHTS AT DEATH

CHAPTER 1. SURVIVING SPOUSE'S WAIVER OF RIGHTS

140. As used in this chapter, "waiver" means a waiver by the surviving spouse of any of the rights listed in subdivision (a) of Section 141, whether executed before or during marriage.

141. (a) The right of a surviving spouse to any of the following may be waived in whole or in part by a waiver under this chapter:

(1) Property that would pass from the decedent by intestate succession.

(2) Property that would pass from the decedent by testamentary disposition in a will executed before the waiver.

(3) A probate homestead.

(4) The right to have exempt property set aside.

(5) Family allowance.

(6) The right to have an estate set aside under Article 2 (commencing with Section 640) of Chapter 10 of Division 3.

(7) The right to elect to take community or quasi-community property against the decedent's will.

(8) The right to take the statutory share of an omitted spouse.

(9) The right to be appointed as the executor or administrator of the decedent's estate.

(b) Nothing in this chapter affects or limits the waiver or manner of waiver of rights other than those referred to in subdivision (a), including but not limited to the right to property that would pass from the decedent to the surviving spouse by nonprobate transfer upon the death of the decedent, such as the survivorship interest under a joint tenancy, a Totten trust account, or a payable-on-death account.

142. A waiver under this chapter shall be in writing and shall be signed by the surviving spouse.

143. A waiver that complies with Section 142 is enforceable unless the court determines either of the following:

(a) A fair and reasonable disclosure of the property of the decedent was not provided to the surviving spouse prior to the execution of the waiver unless the surviving spouse waived such a fair and reasonable disclosure after advice by independent legal counsel.

(b) The surviving spouse was not represented by independent legal counsel at the time of execution of the waiver.

144. (a) Except as provided in subdivision (b), a waiver that complies with Section 142 but is not enforceable under Section 143 is enforceable if the court determines either of the following:

(1) The waiver at the time of execution made a fair and reasonable disposition of the rights of the surviving spouse and the surviving spouse understood the effect of and voluntarily executed the waiver.

(2) The surviving spouse had, or reasonably should have had, an adequate knowledge of the property of the decedent and understood the effect of and voluntarily executed the waiver.

(b) If, after considering all relevant facts and circumstances, the court finds that enforcement of the waiver pursuant to subdivision (a) would be unconscionable under the existing facts and circumstances, the court may refuse to enforce the waiver, enforce the remainder of the waiver without the unconscionable provisions, or limit the application of the unconscionable provisions to avoid an unconscionable result.

145. Unless the waiver or property settlement provides to the contrary, a waiver under this chapter of "all rights" (or equivalent language) in the property or estate of a present or prospective spouse, or a complete property settlement entered into after or in anticipation of separation or dissolution or annulment of marriage, is a waiver by the spouse of the rights described in subdivision (a) of Section 141.

146. (a) As used in this section, "agreement" means a written agreement signed by each spouse or prospective spouse altering, amending, or revoking a waiver under this chapter.

(b) A waiver under this chapter may not be altered, amended, or revoked except by a subsequent written agreement signed by each spouse or prospective spouse.

(c) An agreement is enforceable against a party to the agreement unless the court determines either of the following:

(1) A fair and reasonable disclosure of the property of the other spouse was not provided to the spouse against whom enforcement is sought prior to the execution of the agreement unless the spouse against whom enforcement is sought waived such a fair and reasonable disclosure after advice by independent legal counsel.

(2) The spouse against whom enforcement is sought was not represented by independent legal counsel at the time of execution of the agreement.

(d) Except as provided in subdivision (e), an agreement that is not enforceable under subdivision (c) is enforceable if the court determines that the agreement at the time of execution made a fair and reasonable disposition of the rights of the spouses and the spouse against whom the agreement is sought to be enforced understood the effect of and voluntarily executed the agreement.

(e) If, after considering all relevant facts and circumstances, the court finds that enforcement of the agreement pursuant to subdivision (d) would be unconscionable under the existing facts and circumstances, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provisions, or limit the application of the unconscionable provisions to avoid an unconscionable result.

147. (a) A waiver, agreement, or property settlement made after December 31, 1984, is invalid insofar as it affects the rights listed in subdivision (a) of Section 141 unless it satisfies the requirements of this chapter.

(b) Nothing in this chapter affects the validity or effect of any waiver, agreement, or property settlement made prior to January 1, 1985, and the validity and effect of such waiver, agreement, or property settlement shall continue to be determined by the law applicable to the waiver, agreement, or settlement prior to January 1, 1985.

CHAPTER 2. CONTRACTS CONCERNING WILL OR SUCCESSION

150. (a) A contract to make a will or devise, or not to revoke a will or devise, or to die intestate, if executed after December 31, 1984, can be established only by one of the following:

(1) Provisions of a will stating material provisions of the contract.

(2) An express reference in a will to a contract and extrinsic evidence proving the terms of the contract.

(3) A writing signed by the decedent evidencing the contract.

(b) The execution of a joint will or mutual wills does not create a presumption of a contract not to revoke the will or wills.

CHAPTER 3. PROVISIONS IN WRITTEN INSTRUMENTS

160. (a) Any of the following provisions in an insurance policy, contract of employment, bond, mortgage, promissory note, deposit agreement, pension or profit-sharing plan, trust agreement, conveyance, or any other written instrument effective as a contract, gift, conveyance, or trust is not invalid because the instrument does not comply with the requirements for execution of a will, and this code does not invalidate the instrument or any of the following provisions:

(1) That money or other benefits theretofore due to, controlled by, or owned by a decedent shall be paid after the decedent's death to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

(2) That any money due or to become due under the instrument shall cease to be payable in event of the death of the promisee or the promisor before payment or demand.

(3) That any property which is the subject of the instrument shall pass to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

(b) Nothing in this section limits the rights of creditors under any other law.

PART 4. EFFECT OF HOMICIDE

200. (a) A person who feloniously and intentionally kills the decedent is not entitled to any of the following:

(1) Any property, interest, or benefit under the will of the decedent, including any general or special power of appointment conferred by the will on the killer and any nomination of the killer as executor, trustee, or guardian made by the will.

(2) Any property of the decedent by intestate succession.

(3) Any of the decedent's quasi-community property the killer would otherwise acquire under Section 101 or 102 upon the death of the decedent.

(4) Any property of the decedent under Part 3 (commencing with Section 6500) of Division 6.

(b) In the cases covered by subdivision (a):

(1) The estate of the decedent passes as if the killer had predeceased the decedent and Section 6147 does not apply.

(2) Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent and Section 1389.4 of the Civil Code does not apply.

(3) Provisions of the will of the decedent nominating the killer as

executor, trustee, or guardian shall be interpreted as if the killer had predeceased the decedent.

201. A joint tenant who feloniously and intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes as the decedent's property and the killer has no rights by survivorship. This section applies to joint tenancies in real and personal property, joint and multiple-party accounts in financial institutions, and any other form of co-ownership with survivorship incidents.

202. A named beneficiary of a bond, life insurance policy, or other contractual arrangement who feloniously and intentionally kills the principal obligee or the person upon whose life the policy is issued is not entitled to any benefit under the bond, policy, or other contractual arrangement, and it becomes payable as though the killer had predeceased the decedent.

203. In any case not described in Section 200, 201, or 202 in which one person feloniously and intentionally kills another, any acquisition of property, interest, or benefit by the killer as a result of the killing of the decedent shall be treated in accordance with the principles of this part.

204. (a) A final judgment of conviction of felonious and intentional killing is conclusive for purposes of this part.

(b) In the absence of a conviction of felonious and intentional killing, the court may determine by a preponderance of evidence whether the killing was felonious and intentional for purposes of this part. The burden of proof is on the party seeking to establish that the killing was felonious and intentional for the purposes of this part.

205. This part does not affect the rights of any person who, before rights under this part have been adjudicated, purchases from the killer for value and without notice property which the killer would have acquired except for this part, but the killer is liable for the amount of the proceeds or the value of the property.

206. An insurance company, financial institution, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of this part unless prior to payment it has received at its home office or principal address written notice of a claim under this part.

PART 5. SIMULTANEOUS DEATH

CHAPTER 1. GENERAL PROVISIONS

220. Except as otherwise provided in this chapter, if the title to property or the devolution of property depends upon priority of death and it cannot be established by clear and convincing evidence that one of the persons survived the other, the property of each person shall be administered upon or distributed, or otherwise dealt with, as if that person had survived the other.

221. (a) This chapter does not apply in any case where Section

103, 6146, or 6403 applies.

(b) This chapter does not apply in the case of a trust, deed, or contract of insurance, or any other situation, where (1) provision is made dealing explicitly with simultaneous deaths or deaths in a common disaster or otherwise providing for distribution of property different from the provisions of this chapter or (2) provision is made requiring one person to survive another for a stated period in order to take property or providing for a presumption as to survivorship that results in a distribution of property different from that provided by this chapter.

222. (a) If property is so disposed of that the right of a beneficiary to succeed to any interest in the property is conditional upon surviving another person and it cannot be established by clear and convincing evidence that the beneficiary survived the other person, the beneficiary is deemed not to have survived the other person.

(b) If property is so disposed of that one of two or more beneficiaries would have been entitled to the property if he or she had survived the others, and it cannot be established by clear and convincing evidence that any beneficiary survived any other beneficiary, the property shall be divided into as many equal portions as there are beneficiaries and the portion of each beneficiary shall be administered upon or distributed, or otherwise dealt with, as if that beneficiary had survived the other beneficiaries.

223. (a) As used in this section, "joint tenants" includes owners of property held under circumstances that entitled one or more to the whole of the property on the death of the other or others.

(b) If property is held by two joint tenants and both of them have died and it cannot be established by clear and convincing evidence that one survived the other, the property held in joint tenancy shall be administered upon or distributed, or otherwise dealt with, one-half as if one joint tenant had survived and one-half as if the other joint tenant had survived.

(c) If property is held by more than two joint tenants and all of them have died and it cannot be established by clear and convincing evidence that any of them survived the others, the property held in joint tenancy shall be divided into as many portions as there are joint tenants and the share of each joint tenant shall be administered upon or distributed, or otherwise dealt with, as if that joint tenant had survived the other joint tenants.

224. (a) If the insured and a beneficiary under a policy of life or accident insurance have died and it cannot be established by clear and convincing evidence that the beneficiary survived the insured, the proceeds of the policy shall be administered upon or distributed, or otherwise dealt with, as if the insured had survived the beneficiary.

(b) If the insured and the beneficiary are married to each other, this section applies regardless of whether the policy is community, quasi-community, or separate property.

CHAPTER 2. PROCEEDINGS TO DETERMINE SURVIVAL

230. A petition may be filed under this chapter for any one or more of the following purposes:

(a) To determine for the purposes of Section 103, 220, 222, 223, 224, 6146, 6147, 6242, 6243, 6244, or 6403, or other provision of this code whether one person survived another.

(b) To determine for the purposes of Section 1389.4 of the Civil Code whether issue of an appointee survived the donee.

(c) To determine for the purposes of Section 24606 of the Education Code whether a person has survived in order to receive benefits payable under the system.

(d) To determine for the purposes of Section 21371 of the Government Code whether a person has survived in order to receive money payable under the system.

(e) To determine for the purposes of a case governed by former Sections 296 to 296.8, inclusive, whether persons have died other than simultaneously.

231. A petition may be filed under this chapter by any of the following:

(a) The executor or administrator of any person the priority of whose death is in issue under the applicable provision referred to in Section 230.

(b) Any other person interested in the estate of any such person.

232. (a) The petition shall be filed in the estate proceeding in which the person filing the petition received his or her appointment or in the estate proceeding for the estate in which the person filing the petition claims an interest.

(b) The court that first acquires jurisdiction under this section has exclusive jurisdiction for the purposes of this chapter.

233. (a) The clerk shall set the petition for hearing by the court.

(b) Notice of the hearing on the petition shall be given for the period and in the manner required by Section 1200.5 to all of the following (other than persons joining in the petition):

(1) The executor or administrator of each person the priority of whose death is in issue if there is an executor or administrator for such person.

(2) All devisees of each person the priority of whose death is in issue.

(3) All known heirs of each person the priority of whose death is in issue.

(4) All persons (or their attorneys if they have appeared by attorneys) who have requested special notice as provided in Section 1202 in the proceeding in which the petition is filed or who have given notice of appearance in person or by attorney in that proceeding.

(c) Proof of giving of notice as required by this section shall be made at or before the hearing.

234. At the hearing, the court shall hear the petition and any

objections to the petition that may have been filed or presented. If the court determines that the named persons are dead and that it has not been established by clear and convincing evidence that one person survived another, the court shall make an order to that effect. If the court determines that the named persons are dead and that there is clear and convincing evidence that one person survived another, the court shall make an order setting forth the order in which the persons died. The order, when it becomes final, is a binding determination of the facts set forth in the order and is conclusive as against the personal representatives of the deceased persons named in the order and against all persons claiming by, through, or under any of the deceased persons.

PART 6. DIVISION BY REPRESENTATION

240. If representation is called for by this code, or if a will that expresses no contrary intention calls for distribution per stirpes or by representation or provides for issue or descendants to take without specifying the manner, the property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living, each living member of the nearest generation of issue then living receiving one share and the share of each deceased member of that generation who leaves issue then living being divided in the same manner among his or her then living issue.

SEC. 23. Section 282 of the Probate Code, as added by Assembly Bill 28 of the 1983–84 Regular Session, is amended to read:

282. (a) Unless the creator of the interest provides for a specific disposition of the interest in the event of a disclaimer, the interest disclaimed shall descend, go, be distributed, or continue to be held (1) as to a present interest, as if the disclaimant had predeceased the creator of the interest or (2) as to a future interest, as if the disclaimant had died before the event determining that the taker of the interest had become finally ascertained and the taker's interest indefeasibly vested. A disclaimer relates back for all purposes to the date of the death of the creator of the disclaimed interest or the determinative event, as the case may be.

(b) Notwithstanding subdivision (a):

(1) If an interest created by intestate succession is disclaimed, the beneficiary is not treated as having predeceased the decedent for the purpose of determining the generation at which the division of the estate is to be made under Section 240.

(2) The beneficiary of a disclaimed interest is not treated as having predeceased the decedent for the purpose of applying subdivision (d) of Section 6409 or subdivision (b) of Section 6410.

SEC. 24. Section 300 of the Probate Code is amended to read:

300. When a person dies, the title to the person's property, real and personal, passes to the person to whom it is devised or bequeathed by the decedent's last will, or, in the absence of such

disposition, to the persons who succeed to the decedent's estate as provided in Part 2 (commencing with Section 6400) of Division 6; but all of the decedent's property is subject to the possession of the executor or administrator and to the control of the superior court for the purposes of administration, sale, or other disposition under the provisions of this division, and is chargeable with the expenses of administering the decedent's estate, and the payment of the decedent's debts and the family allowance, except as otherwise provided in this code.

SEC. 25. Section 323 of the Probate Code is amended to read:

323. Any executor, devisee or legatee named in a will, or any other person interested in the estate, may, at any time after the death of the testator, petition the court having jurisdiction to have the will proved, whether or not the will be in the petitioner's possession, lost or destroyed, or beyond the jurisdiction of the state.

SEC. 26. Section 328.3 is added to the Probate Code, to read:

328.3. A will or part of a will procured to be made by duress, menace, fraud, or undue influence may be denied probate. A revocation procured by the same means may be declared void.

SEC. 27. Section 328.7 is added to the Probate Code, to read:

328.7. A will, the validity of which is made conditional by its own terms, shall be granted or denied probate, or denied effect after probate, in conformity with the condition.

SEC. 28. Section 350 of the Probate Code is repealed.

SEC. 29. Section 351 of the Probate Code is amended to read:

351. The petition for the probate of a lost or destroyed will shall state, or be accompanied by a written statement of, the testamentary words, or the substance thereof. If the will is established, the provisions of the will shall be set forth in the order admitting the will to probate, and the order shall be entered at length in the minutes. The testimony of each witness whose testimony is offered to prove the provisions of the will shall be reduced to writing, signed by the witness and filed, and shall be admissible in evidence in any contest of the will if the witness has died or otherwise has become unavailable as a witness or has permanently removed from the state.

SEC. 30. Section 372.5 is added to the Probate Code, to read:

372.5. Notwithstanding a provision in the will that one who contests or attacks the will or any of its provisions shall take nothing under the will or shall take a reduced share, any person interested may, without forfeiting any benefits under the will, contest a provision of the will which benefits a witness to the will if that witness is needed to establish the validity of the will.

SEC. 31. Section 632 of the Probate Code is amended to read:

632. For the purpose of this article, any property or interest therein or lien thereon which, at the time of the decedent's death, was held by the decedent as joint tenant, or in which the decedent had a life or other estate terminable upon the decedent's death, or which was held by the decedent as community property or quasi-community property and passed to the decedent's surviving

spouse pursuant to Section 649.1, shall be excluded in determining the property or estate of the decedent or its value.

SEC. 32. Section 640 of the Probate Code is amended to read:

640. If the decedent leaves a surviving spouse or minor child or minor children, and the net value of the whole estate, over and above all liens and encumbrances at the date of death and over and above the value of any probate homestead interest set apart out of decedent's estate under Section 6520, does not exceed the sum of twenty thousand dollars ($20,000), the same may be set aside to the surviving spouse, if there be one, and if there be none, then to the minor child or minor children of the decedent.

SEC. 33. Section 641 of the Probate Code is amended to read:

641. Allegations showing that this article is applicable, together with a prayer that the estate be set aside as provided in this article, may be presented without filing a petition for probate of the will or for letters of administration, by petition of the person named in the will as executor or the surviving spouse or the guardian of the minor child or children of the decedent. Such allegations and prayer may also be included alternatively in the petition for probate of the will or for letters of administration or such allegations and prayer may be presented by separate petition filed by the personal representative of the decedent, or the surviving spouse, or the guardian of the minor child or children, filed at any time before the hearing on the petition for probate of the will or for letters of administration or after the filing of the inventory. In all cases the petition shall be verified. The allegations shall include a specific description and an estimate of the value of all of the decedent's property, a list of all liens and encumbrances at the date of death, and a designation of any property as to which a probate homestead is set apart out of decedent's estate under Section 6520.

SEC. 34. Section 645 of the Probate Code is amended to read:

645. If, upon the hearing of any petition provided for by this article, the court finds that the net value of the estate over and above all liens and encumbrances at the date of death of the decedent and over and above the value of any probate homestead interest set apart out of decedent's estate under Section 6520, does not exceed the sum of twenty thousand dollars ($20,000), as of the date of such death, and that the expenses of the last illness, funeral charges and expenses of administration have been paid, it shall, by decree for that purpose, assign to the surviving spouse of the decedent, if there be a surviving spouse who has not theretofore remarried, or, if there be no such surviving spouse, then to such child or children of the decedent as may then be minors, if any, the whole of the estate, subject to whatever mortgages, liens or encumbrances there may be upon the estate at the time of the death of the decedent. The title thereto shall vest absolutely in such surviving spouse, or if there be no such surviving spouse, the minor child or children subject to whatever mortgages, liens or encumbrances there may be upon the estate at the time of the death of the decedent, and there must be no further

proceedings in the administration, unless further estate be discovered.

SEC. 35. Section 645.3 of the Probate Code is amended to read:

645.3. A surviving spouse or a minor child or children in whom title has vested pursuant to Section 645 shall be personally liable for the unsecured debts of the decedent. The personal liability shall not exceed the value of the estate at the date of death, less the amount of any liens and encumbrances and any probate homestead and other property set apart pursuant to Section 6510 or 6520. Such personal liability shall cease one year after title to the estate vests, except with respect to any actions or proceedings then pending in court. In any action based upon such an unsecured debt, the surviving spouse, or the minor child or children, or the guardian of such minor child or children, may assert any defenses, cross-complaints, or setoffs which would have been available to the decedent if the decedent had not died.

SEC. 36. Article 2.5 (commencing with Section 649.1) is added to Chapter 10 of Division 3 of the Probate Code, to read:

Article 2.5. Administration of Community and Quasi-Community Property

649.1. (a) Except as provided in Section 649.3, when a husband or wife dies intestate, or dies testate and by his or her will bequeaths or devises all or a part of his or her interest in the community property or quasi-community property to the surviving spouse, it passes to the survivor subject to the provisions of Sections 649.2 and 649.4, and no administration is necessary.

(b) Notwithstanding subdivision (a), upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse, the interest of the deceased spouse in the community property or quasi-community property or both the interest of the deceased spouse and the surviving spouse in the community property or quasi-community property, or both, may be administered under this division. The election must be made within four months after the issuance of letters testamentary or of administration, or within such further time as the court may allow upon a showing of good cause, by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse and prior to the entry of an order under Section 655.

(c) Notwithstanding subdivision (a) or (b), the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file an election and agreement in the proceedings for the administration of the estate of the deceased spouse to have all or part of the interest of the surviving spouse in the community property or quasi-community property transferred by the surviving spouse or the surviving spouse's personal representative, guardian, or conservator to the trustee

under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee. The election and agreement must be filed before the entry of the decree of final distribution in the proceedings.

649.2. After 40 days from the death of a spouse, the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse shall have full power to sell, lease, mortgage or otherwise deal with and dispose of the community or quasi-community real property, unless a notice is recorded in the county in which the property is situated to the effect that an interest in the property is claimed by another under the will of the deceased spouse. The notice must also (1) describe the property in which an interest is claimed, and (2) set forth the name or names of the owner or owners of the record title to the property. There shall be endorsed on the notice instructions that it shall be indexed by the recorder in the name or names of the owner or owners of the record title to the property, as grantor or grantors, and in the name of the person claiming an interest in the property, as grantee. The right, title, and interest of any grantee, purchaser, encumbrancer, or lessee shall be as free of rights of devisees or creditors of the deceased spouse to the same extent as if the property had been owned as the separate property of the surviving spouse.

649.3. When a deceased spouse disposes by will of all or part of his or her interest in the community property or quasi-community property to someone other than the surviving spouse or when the will of a deceased spouse contains a trust or limits the surviving spouse to a qualified ownership in the property, that part of the interest of the deceased spouse in the community property or quasi-community property disposed of to someone other than the surviving spouse, disposed of in trust, or limiting the surviving spouse to a qualified ownership in the property shall be subject to administration under this division. A will that provides for a devise or bequest of community property or quasi-community property to the surviving spouse if such spouse survives the deceased spouse by a specified period of time shall not be considered to create such a qualified ownership as to fall within the provision of this section, if the specified period of time has expired.

649.4. (a) Except as provided by Section 951.1, upon the death of a married person, the surviving spouse is personally liable for the debts of the deceased spouse chargeable against the community property and the debts of the deceased spouse chargeable against the separate property of the deceased spouse to the extent such separate property is characterized as quasi-community property under Section 66, unless the interests of both spouses in the community property or quasi-community property, or both, are administered under this division. The personal liability shall not exceed the value at the date of death, less the amount of any liens and encumbrances, of the total of the following:

(1) The interest of the surviving spouse (A) in the community property immediately prior to the death and (B) in quasi-community property arising by virtue of the death which is not exempt from the enforcement of a money judgment.

(2) The interest of the deceased spouse in such property passing to the surviving spouse without administration.

(b) If proceedings are commenced in this state for the administration of the estate of the deceased spouse and the time for filing or presenting claims has commenced, any action upon the liability of the surviving spouse pursuant to subdivision (a) shall be barred to the same extent as provided for claims under Article 1 (commencing with Section 700) of Chapter 12, except as to the following:

(1) Creditors who had commenced judicial proceedings for the enforcement of the debts and had served the surviving spouse with process prior to the expiration of the time for filing or presenting claims.

(2) Creditors who secure the acknowledgment in writing of the liability of the surviving spouse for the debts.

(3) Creditors who file a timely claim in the proceedings.

(c) Except as provided by subdivision (b), any debt described in subdivision (a) may be enforced against the surviving spouse in the same manner as it could have been enforced against the deceased spouse if the deceased spouse had not died. In any action based upon the debt, the surviving spouse may assert any defenses, cross-complaints, or setoffs which would have been available to the deceased spouse if the deceased spouse had not died.

649.5. Notwithstanding the provisions of this article, community property held in a revocable trust described in Section 5113.5 of the Civil Code is governed by the provisions, if any, in the trust for disposition in the event of death.

SEC. 37. Section 650 of the Probate Code is amended to read:

650. (a) A surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file a petition in the superior court in the county in which the estate of the deceased spouse may be administered alleging that administration of all or a part of the estate is not necessary for the reason that all or a part of the estate is community property or quasi-community property passing or belonging to the surviving spouse. The petition shall be verified and shall set forth the following information:

(1) The facts necessary to determine the county in which the estate of the deceased spouse may be administered if proceedings for the administration of the estate are not pending.

(2) The names, ages, and addresses of the heirs, devisees, and legatees of the deceased spouse, the names and addresses of all persons named as executors of the will of the deceased spouse, and the names and addresses of all persons appointed as executors of the will or administrators of the estate of the deceased spouse, which are

known to the petitioner.

(3) A description of the property of the deceased spouse which the petitioner alleges is community property or quasi-community property passing to the surviving spouse, including the trade or business name of any community property or quasi-community property business which the deceased spouse was operating or managing at the time of death.

(4) The facts upon which the petitioner bases the allegation that all or a part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse.

(5) A description of any interest in the community property or quasi-community property, or both, which the petitioner requests the court to confirm to the surviving spouse as belonging to the surviving spouse pursuant to Section 100 or 101.

(b) If the petitioner bases the allegation that all or part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse upon the will of the deceased spouse, a copy of the will shall be attached to the petition.

(c) To the extent of the election, this section does not apply if the petitioner has elected pursuant to subdivision (b) of Section 649.1 either to have:

(1) The interest of the deceased spouse in the community property or quasi-community property, or both, administered under this division.

(2) Both the interest of the deceased spouse and the surviving spouse in the community property or quasi-community property, or both, administered under this division.

(d) The action authorized by this section may be taken by a guardian or conservator without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

SEC. 38. Section 655 of the Probate Code is amended to read:

655. (a) If the court finds that all of the property is community property or quasi-community property, or both, passing to the surviving spouse, it shall issue an order describing the property, determining that the property is community property or quasi-community property, or both, passing to the surviving spouse, and determining that no administration is necessary. If the petition filed under Section 650 includes a description of the interest of the surviving spouse in the community property or quasi-community property, or both, which belongs to the surviving spouse pursuant to Section 100 or 101 and the court finds that the interest belongs to the surviving spouse, it shall issue an order describing the property and confirming the ownership of the surviving spouse.

(b) If the court finds that all or a part of the property is not community property or quasi-community property passing to the surviving spouse, it shall do all of the following:

(1) Issue an order describing any property which is community property or quasi-community property passing to the surviving spouse, determining that the property passes to the surviving spouse, and determining that no administration of the property is necessary; and issue any further orders which may be necessary to cause delivery of the property or its proceeds to the surviving spouse.

(2) If the petition filed under Section 650 includes a description of the interest of the surviving spouse in the community property or quasi-community property, or both, which belongs to the surviving spouse pursuant to Section 100 or 101 and the court finds that the interest belongs to the surviving spouse, issue an order describing the property and confirming the ownership of the surviving spouse and any further orders which may be necessary to cause ownership of the property to be confirmed in the surviving spouse.

(3) Issue an order that the property which is not community property or quasi-community property passing to the surviving spouse is subject to administration under this division.

(c) Upon becoming final, an order (1) determining that property is community property or quasi-community property passing to the surviving spouse or (2) confirming the ownership of the surviving spouse of property belonging to the surviving spouse under Section 100 or 101 shall be conclusive on all persons, whether or not they are in being.

SEC. 39. Chapter 11 (commencing with Section 660) of Division 3 of the Probate Code is repealed.

SEC. 40. Chapter 11 (commencing with Section 660) is added to Division 3 of the Probate Code, to read:

CHAPTER 11. LEGACIES AND INTEREST

660. The provisions of this chapter are in all cases to be controlled by a testator's express intention.

661. In case of a bequest of the interest or income of a certain sum or fund, the interest or income accrues from the testator's death.

662. Legacies are distinguished and designated, according to their nature, as follows:

(a) A legacy of a particular thing, specified and distinguished from all others of the same kind belonging to the testator, is specific; if such legacy fails, resort cannot be had to the other property of the testator.

(b) A legacy is demonstrative when the particular fund or personal property is pointed out from which it is to be taken or paid.

(c) An annuity is a bequest of certain specified sums periodically; if the fund or property out of which a demonstrative legacy or an annuity is payable fails, in whole or in part, resort may be had to the general assets, as in the case of a general legacy.

(d) A residuary legacy embraces only that which remains after all the bequests of the will are discharged.

(e) All other legacies are general legacies.

663. (a) General pecuniary legacies, including general

pecuniary legacies in trust, if not paid prior to the first anniversary of the testator's death, bear interest thereafter at the rate of interest payable on a money judgment entered in this state.

(b) Annuities commence at the testator's death and are due at the end of the annual, monthly, or other specified period.

(c) Whenever an annuitant, legatee of a legacy for maintenance, or beneficiary of a trust is entitled to periodic payments or trust income commencing at the testator's death, he or she is entitled to interest on the amount of any unpaid accumulations of such payments or income held by the executor or administrator on each anniversary of the decedent's death, computed from the date of such anniversary at the rate of interest payable on a money judgment entered in this state.

664. (a) Unless otherwise provided by the will of the testator, subject to subdivision (b), all net income received during the period of administration from real and personal property not specifically or demonstrably devised or bequeathed, including net income from property sold during that period, shall be distributed pro rata as income to all of the following:

(1) Any trust or trusts of all or any part of the residuary estate.

(2) Any tenant or tenants for life or for a term of years of all or any part of the residuary estate.

(3) Any person or persons entitled absolutely and free of trust to all or any part of the residuary estate.

(b) Except as otherwise provided by will of the testator, none of the income referred to in subdivision (a) shall be distributed as income of a general pecuniary legacy in trust, except that the interest on a pecuniary legacy in trust provided for in Section 663 shall be distributed as income to the trust.

SEC. 41. Section 704.2 of the Probate Code is amended to read:

704.2. A claim may be filed by the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse for the payment of the debts of the deceased spouse described in Section 649.4. The claim must be filed prior to the filing of a petition for final distribution. It shall set forth the reason why the debts are not barred by subdivision (b) of Section 649.4 and a statement whether the debts remain unpaid or have been paid by the surviving spouse. If the surviving spouse is personally liable for the debts, the claim shall also include an inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property as of the date of death of the deceased spouse. The statement may identify any property which is exempt from enforcement of a money judgment.

SEC. 42. Section 736 of the Probate Code is amended to read:

736. When a testator devises real property subject to a mortgage, deed of trust or other lien, and notwithstanding Section 6170 the real property passes with a right of exoneration in accord with an

intention indicated by the will, other property specifically devised or bequeathed shall not be sold for the purpose of exonerating the encumbered property, unless a contrary intention that the other property be sold is indicated by the will.

SEC. 43. Section 1026 is added to the Probate Code, to read:

1026. Continuation of the administration of the estate as provided in Section 1025.5 for the purpose of paying a family allowance is not in the best interests of the estate or the persons interested therein unless the court finds both of the following:

(a) That the family allowance is needed by the recipient to pay for necessaries of life, including education so long as pursued to advantage.

(b) That the needs of the recipient for continued family allowance outweigh the needs of the decedent's heirs or the beneficiaries under the decedent's will whose interests would be adversely affected by continuing the administration of the estate for this purpose.

SEC. 44. Section 1050 of the Probate Code is repealed.

SEC. 45. Section 1051 of the Probate Code is repealed.

SEC. 46. Section 1052 of the Probate Code is repealed.

SEC. 47. Section 1053 of the Probate Code is repealed.

SEC. 48. Section 1054 of the Probate Code is amended to read:

1054. All questions arising under Section 6174 (ademption) or 6409 (advancement) shall be heard and determined by the court and shall be specified in the decree assigning and distributing the estate; and the decree of the court, when it becomes final, is conclusive on all parties interested in the estate.

SEC. 49. Section 1139 of the Probate Code is amended to read:

1139. (a) This article applies to all of the following:

(1) A trust over which jurisdiction continues after distribution, as provided by Section 1120.

(2) A trust subject to Chapter 8 (commencing with Section 6320) of Part 1 of Division 6.

(3) A trust subject to Article 2.5 (commencing with Section 1138).

(4) Any other trust to which the provisions of this article are made applicable by statute or trust instrument.

(b) This chapter shall not be construed to prevent the transfer of the place of administration of a trust or of trust assets to another jurisdiction in any case where judicial approval of a transfer was not required under law in effect immediately prior to the effective date of this article.

(c) This article shall not apply to any proceeding or action pending on the effective date of this article.

SEC. 50. Section 1139.6 of the Probate Code is amended to read:

1139.6. In the case of trusts not subject to Article 1 (commencing with Section 1120) or Article 2.5 (commencing with Section 1138) of this chapter, or Chapter 8 (commencing with Section 6320) of Part 1 of Division 6, a proceeding pursuant to this article shall be commenced in the superior court of the county in which is located

the principal place of administration of the trust, as defined in Section 1138.3, unless the statute providing for the proceeding otherwise provides.

SEC. 51. Section 1215 of the Probate Code is amended to read:

1215. As used in this article:

(1) "Notice" means notice of hearing which is to be sent by mail or personally served.

(2) "Trust proceeding" means a judicial proceeding involving a trust provided for by Chapter 19 (commencing with Section 1120) of this division, or Chapter 8 (commencing with Section 6320) of Part 1 of Division 6, including but not limited to proceedings for instructions, for settlement of trustee's accounts or distribution of trust assets upon partial or final termination of the trust.

SEC. 52. Section 1871 of the Probate Code is amended to read:

1871. Nothing in this article shall be construed to deny a conservatee any of the following:

(a) The right to control an allowance provided under Section 2421.

(b) The right to control wages or salary to the extent provided in Section 2601.

(c) The right to make a will.

(d) The right to enter into transactions to the extent reasonable to provide the necessaries of life to the conservatee and the spouse and minor children of the conservatee.

SEC. 53. Section 2580 of the Probate Code is amended to read:

2580. (a) The conservator or other interested person may file a petition under this article for an order of the court authorizing or requiring the conservator to take a proposed action for any one or more of the following purposes:

(1) Benefiting the conservatee or the estate.

(2) Minimizing current or prospective taxes or expenses of administration of the conservatorship estate or of the estate upon the death of the conservatee.

(3) Providing gifts for such purposes, and to such charities, relatives (including the other spouse), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the conservatee.

(b) The action proposed in the petition may include, but is not limited to, the following:

(1) Making gifts of principal or income, or both, of the estate, outright or in trust.

(2) Conveying or releasing the conservatee's contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety.

(3) Exercising or releasing the conservatee's powers as donee of a power of appointment.

(4) Entering into contracts.

(5) Creating for the benefit of the conservatee or others, revocable or irrevocable trusts of the property of the estate, which

trusts may extend beyond the conservatee's disability or life.

(6) Exercising options of the conservatee to purchase or exchange securities or other property.

(7) Exercising the rights of the conservatee to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any of the following:

(i) Life insurance policies, plans, or benefits.

(ii) Annuity policies, plans, or benefits.

(iii) Mutual fund and other dividend investment plans.

(iv) Retirement, profit sharing, and employee welfare plans and benefits.

(8) Exercising the right of the conservatee to elect to take under or against a will.

(9) Exercising the right of the conservatee to disclaim any interest that may be disclaimed under Division 2.5 (commencing with Section 260).

(10) Exercising the right of the conservatee (i) to revoke a revocable trust or (ii) to surrender the right to revoke a revocable trust, but the court shall not authorize or require the conservator to exercise the right to revoke a revocable trust if the instrument governing the trust (i) evidences an intent to reserve the right of revocation exclusively to the conservatee, (ii) provides expressly that a conservator may not revoke the trust, or (iii) otherwise evidences an intent that would be inconsistent with authorizing or requiring the conservator to exercise the right to revoke the trust.

(11) Making an election or an election and agreement referred to in Section 649.1.

SEC. 54. Section 3012 of the Probate Code is amended to read:

3012. (a) Unless the spouse lacks legal capacity under the applicable standard prescribed in subdivision (b), a spouse has legal capacity to:

(1) Manage and control community property, including legal capacity to dispose of community property.

(2) Join in or consent to a transaction involving community property.

(b) A spouse lacks legal capacity to:

(1) Manage and control, including legal capacity to dispose of, community property if the spouse is substantially unable to manage or control the community property.

(2) Join in or consent to a transaction involving community property if the spouse does not have legal capacity for the particular transaction measured by principles of law otherwise applicable to the particular transaction.

(3) Do any act, or engage in any activity, described in paragraph (1) or (2) if the spouse has a conservator.

(c) Nothing in this section shall be construed to deny a spouse, whether or not lacking legal capacity, any of the following:

(1) The right to control an allowance provided under Section

2421.

(2) The right to control wages or salary to the extent provided in Section 2601.

(3) The right to make a will.

(4) The right to enter into transactions to the extent reasonable to provide the necessities of life to the spouse, the other spouse, and the minor children of the spouses.

SEC. 55. Division 6 (commencing with Section 6100) is added to the Probate Code, to read:

DIVISION 6. WILLS AND INTESTATE SUCCESSION

PART 1. WILLS

CHAPTER 1. GENERAL PROVISIONS

6100. An individual 18 or more years of age who is of sound mind may make a will.

6101. A will may dispose of the following property:

(a) The testator's separate property.

(b) The one-half of the community property that belongs to the testator under Section 100.

(c) The one-half of the testator's quasi-community property that belongs to the testator under Section 101.

6102. A will may make a disposition of property to any person, including but not limited to any of the following:

(a) An individual.

(b) A corporation.

(c) An unincorporated association, society, lodge, or any branch thereof.

(d) A county, city, city and county, or any municipal corporation.

(e) Any state, including this state.

(f) The United States or any instrumentality thereof.

(g) A foreign country or a governmental entity therein.

CHAPTER 2. EXECUTION OF WILLS

6110. (a) Except as provided in this part, a will shall be in writing and satisfy the requirements of this section.

(b) The will shall be signed either (1) by the testator or (2) in the testator's name by some other person in the testator's presence and by the testator's direction.

(c) The will shall be witnessed by being signed by at least two persons each of whom (1) being present at the same time, witnessed either the signing of the will or the testator's acknowledgment of the signature or of the will and (2) understand that the instrument they sign is the testator's will.

6111. (a) A will that does not comply with Section 6110 is valid as a holographic will, whether or not witnessed, if the signature and

the material provisions are in the handwriting of the testator.

(b) If a holographic will does not contain a statement as to the date of its execution and:

(1) If the omission results in doubt as to whether its provisions or the inconsistent provisions of another will are controlling, the holographic will is invalid to the extent of the inconsistency unless the time of its execution is established to be after the date of execution of the other will.

(2) If it is established that the testator lacked testamentary capacity at any time during which the will might have been executed, the will is invalid unless it is established that it was executed at a time when the testator had testamentary capacity.

6112. (a) Any person generally competent to be a witness may act as a witness to a will.

(b) A will or any provision thereof is not invalid because the will is signed by an interested witness. The fact that the will makes a devise to a subscribing witness creates a presumption that the witness procured the devise by duress, menace, fraud, or undue influence. This presumption is a presumption affecting the burden of proof.

6113. A written will is valid if its execution complies with any of the following:

(a) The will is executed in compliance with Section 6110 or 6111 or Chapter 6 (commencing with Section 6200) or Chapter 11 (commencing with Section 6380).

(b) The execution of the will complies with the law at the time of execution of the place where the will is executed.

(c) The execution of the will complies with the law of the place where at the time of execution or at the time of death the testator is domiciled, has a place of abode, or is a national.

CHAPTER 3. REVOCATION AND REVIVAL

6120. A will or any part thereof is revoked by any of the following:

(a) A subsequent will which revokes the prior will or part expressly or by inconsistency.

(b) Being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it, by either (1) the testator or (2) another person in the testator's presence and by the testator's direction.

6121. A will executed in duplicate or any part thereof is revoked if one of the duplicates is burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it, by either (1) the testator or (2) another person in the testator's presence and by the testator's direction.

6122. (a) Unless the will expressly provides otherwise, if after executing a will the testator's marriage is dissolved or annulled, the dissolution or annulment revokes all of the following:

(1) Any disposition or appointment of property made by the will

to the former spouse.

(2) Any provision of the will conferring a general or special power of appointment on the former spouse.

(3) Any provision of the will nominating the former spouse as executor, trustee, conservator, or guardian.

(b) If any disposition or other provision of a will is revoked solely by this section, it is revived by the testator's remarriage to the former spouse.

(c) In case of revocation by dissolution or annulment:

(1) Property prevented from passing to a former spouse because of the revocation passes as if the former spouse failed to survive the testator.

(2) Other provisions of the will conferring some power or office on the former spouse shall be interpreted as if the former spouse failed to survive the testator.

(d) For purposes of this section, dissolution or annulment means any dissolution or annulment which would exclude the spouse as a surviving spouse within the meaning of Section 78. A decree of legal separation which does not terminate the status of husband and wife is not a dissolution for purposes of this section.

(e) No change of circumstances other than as described in this section revokes a will.

6123. (a) If a second will which, had it remained effective at death, would have revoked the first will in whole or in part, is thereafter revoked by acts under Section 6120 or 6121, the first will is revoked in whole or in part unless it is evident from the circumstances of the revocation of the second will or from the testator's contemporary or subsequent declarations that the testator intended the first will to take effect as executed.

(b) If a second will which, had it remained effective at death, would have revoked the first will in whole or in part, is thereafter revoked by a third will, the first will is revoked in whole or in part, except to the extent it appears from the terms of the third will that the testator intended the first will to take effect.

CHAPTER 4. REFERENCE TO MATTERS OUTSIDE THE WILL

6130. A writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

6131. A will may dispose of property by reference to acts and events that have significance apart from their effect upon the dispositions made by the will, whether the acts and events occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another person is such an event.

CHAPTER 5. RULES OF CONSTRUCTION OF WILLS

Article 1. General Provisions

6140. A will is to be construed according to the intention of the testator.

6141. The meaning and legal effect of a disposition in a will shall be determined by the local law of a particular state selected by the testator in the will unless the application of that law is contrary to any of the following:

(a) The rights of the surviving spouse in community and quasi-community property.

(b) The provisions of Part 3 (commencing with Section 6500).

(c) Any other public policy of this state otherwise applicable to the disposition.

6142. Except as provided by Sections 1386.1 and 1386.2 of the Civil Code relating to powers of appointment, absent a contrary intention of the testator, a will passes all property the testator owns at death including property acquired after execution of the will.

6143. Absent a contrary intention of the testator, a devise of property to more than one person vests the property in them as owners in common.

6144. Absent a contrary intention of the testator, if a will directs the conversion of real property into money, the property and its proceeds are deemed personal property from the time of the testator's death.

6145. The law of this state does not include (1) the common law rule of worthier title that a testator cannot devise an interest to his or her own heirs or (2) a presumption or rule of interpretation that a testator does not intend, by a devise to his or her own heirs or next of kin, to transfer an interest to them. The meaning of a devise of a legal or equitable interest to a testator's own heirs or next of kin, however designated, shall be determined by the general rules applicable to the interpretation of wills. This section applies to all cases in which a final judgment had not been entered as of September 18, 1959.

6146. (a) A devisee who fails to survive the testator or until any future time required by the will does not take under the will. For the purposes of this subdivision, unless a contrary intention is indicated by the will, a devisee of a future interest (including one in class gift form) is required by the will to survive to the time when the devise is to take effect in enjoyment.

(b) In the absence of a contrary provision in the will:

(1) If it cannot be established by clear and convincing evidence that the devisee has survived the testator, it is deemed that the devisee did not survive the testator.

(2) If it cannot be established by clear and convincing evidence that the devisee survived until a future time required by the will, it is deemed that the devisee did not survive until the required future

time.

6147. (a) As used in this section, "devisee" means a devisee who is kindred of the testator or kindred of a surviving, deceased, or former spouse of the testator.

(b) Subject to subdivision (c), if a devisee is dead when the will is executed, or is treated as if he or she predeceased the testator, or fails to survive the testator or until a future time required by the will, the issue of the deceased devisee take in his or her place by representation. A devisee under a class gift is a devisee for the purpose of this subdivision unless his or her death occurred before the execution of the will and that fact was known to the testator when the will was executed.

(c) The issue of a deceased devisee do not take in his or her place if the will expresses a contrary intention or a substitute disposition. With respect to multiple devisees or a class of devisees, a contrary intention or substitute disposition is not expressed by a devise to the "surviving" devisees or to "the survivor or survivors" of them, or words of similar import, unless one or more of the devisees had issue living at the time of the execution of the will and that fact was known to the testator when the will was executed.

6148. Except as provided in Section 6147 or in the will:

(a) If a devise (other than a residuary devise or a devise of a future interest) fails for any reason, the property devised becomes a part of the residue.

(b) If the residue or a future interest is devised to two or more persons and the share of a devisee fails for any reason, the share passes to the other devisees in proportion to their other interest in the residue or future interest.

6149. In the absence of a contrary provision in the will, a condition in a devise of a present or future interest that refers to a person's death "with" or "without" issue, or to a person's "having" or "leaving" issue or no issue, or a condition based on words of similar import, is construed to refer to that person's being dead at the time the devise takes effect in enjoyment and to his or her either having or not having, as the case may be, issue who are alive at the time of enjoyment.

6150. In the absence of a contrary provision in the will:

(a) A devise of a present interest to a class includes all persons answering the class description at the testator's death.

(b) A devise of a future interest to a class includes all persons answering the class description at the time the devise is to take effect in enjoyment.

(c) A person conceived before but born after the testator's death or time of enjoyment, as the case may be, takes if answering the class description.

6151. Unless a contrary intention is indicated by the will, a devise of a present or future interest to the testator's or another designated person's "heirs," "next of kin," "relatives," or "family," or to "the persons entitled thereto under the intestate succession laws," or to

persons described by words of similar import, is a devise to those who would be the testator's or other designated person's heirs, their identities and respective shares to be determined as if the testator or other designated person were to die intestate at the time when the devise is to take effect in enjoyment and according to the California statutes of intestate succession in effect at that time.

6152. Unless otherwise provided in the will:

(a) Except as provided in subdivision (b), halfbloods, adopted persons, and persons born out of wedlock, and the issue of all such persons when appropriate to the class, are included in terms of class gift or relationship in accordance with the rules for determining relationship and inheritance rights for purposes of intestate succession.

(b) In construing a devise by a testator who is not the natural parent, a person born to the natural parent shall not be considered the child of that parent unless the person lived while a minor as a regular member of the household of the natural parent or of that parent's parent, brother, sister, or surviving spouse. In construing a devise by a testator who is not the adoptive parent, a person adopted by the adoptive parent shall not be considered the child of that parent unless the person lived while a minor (either before or after the adoption) as a regular member of the household of the adopting parent or of that parent's parent, brother, sister, or surviving spouse.

(c) Subdivisions (a) and (b) also apply in determining:

(1) Persons who would be kindred of the testator or kindred of a surviving, deceased, or former spouse of the testator under Section 6147.

(2) Persons to be included as issue of a deceased devisee under Section 6147.

(3) Persons who would be the testator's or other designated person's heirs under Section 6151.

Article 2. Ascertaining Meaning of Language Used in the Will

6160. The words of a will are to receive an interpretation that will give every expression some effect, rather than one that will render any of the expressions inoperative; and preference is to be given to an interpretation of a will that will prevent an intestacy, rather than one that will result in an intestacy.

6161. All the parts of a will are to be construed in relation to each other and so as, if possible, to form a consistent whole. If the meaning of any part of a will is ambiguous or doubtful, it may be explained by any reference to or recital of that part in another part of the will.

6162. The words of a will are to be given their ordinary and grammatical meaning unless the intention to use them in another sense is clear and their intended meaning can be ascertained. Technical words are not necessary to give effect to a disposition in a will. Technical words in a will are to be considered as having been used in their technical sense unless (1) the context clearly indicates

a contrary intention or (2) it satisfactorily appears that the will was drawn solely by the testator and that the testator was unacquainted with the technical sense.

Article 3. Exoneration; Ademption

6165. The rules of construction in this article apply in the absence of a contrary intention of the testator.

6170. A specific devise passes the property devised subject to any mortgage, deed of trust, or other lien existing at the date of death, without right of exoneration, regardless of a general directive in the will to pay debts.

6171. (a) If the testator intended a specific devise of certain securities rather than the equivalent value thereof, the specific devisee is entitled only to:

(1) As much of the devised securities as is a part of the estate at the time of the testator's death.

(2) Any additional or other securities of the same entity owned by the testator by reason of action initiated by the entity excluding any acquired by exercise of purchase options.

(3) Securities of another entity owned by the testator as a result of a merger, consolidation, reorganization or other similar action initiated by the entity.

(4) Any additional securities of the entity owned by the testator as a result of a plan of reinvestment if it is a regulated investment company.

(b) Distributions prior to death with respect to a specifically devised security not provided for in subdivision (a) are not part of the specific devise.

6172. A specific devisee has the right to the remaining specifically devised property and all of the following:

(a) Any balance of the purchase price (together with any security interest) owing from a purchaser to the testator at death by reason of sale of the property.

(b) Any amount of an eminent domain award for the taking of the property unpaid at death.

(c) Any proceeds unpaid at death on fire or casualty insurance on the property.

(d) Property owned by the testator at death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically devised obligation.

6173. (a) Except as otherwise provided in this section, if specifically devised property is sold by a conservator, the specific devisee has the right to a general pecuniary devise equal to the net sale price of the property.

(b) Except as otherwise provided in this section, if an eminent domain award for the taking of specifically devised property is paid to a conservator, or if the proceeds on fire or casualty insurance on specifically devised property are paid to a conservator, the specific

devisee has the right to a general pecuniary devise equal to the eminent domain award or the insurance proceeds.

(c) This section does not apply if, after the sale, condemnation, fire, or casualty, the conservatorship is terminated and the testator survives the termination by one year.

(d) The right of the specific devisee under this section is reduced by any right the specific devisee has under Section 6172.

6174. (a) Property a testator gave during lifetime to a person is treated as a satisfaction of a devise to that person in whole or in part only if one of the following conditions is satisfied:

(1) The will provides for deduction of the lifetime gift.

(2) The testator declares in a contemporaneous writing that the gift is to be deducted from the devise or is in satisfaction of the devise.

(3) The devisee acknowledges in writing that the gift is in satisfaction.

(b) Subject to subdivision (c), for the purpose of partial satisfaction, property given during lifetime is valued as of the time the devisee came into possession or enjoyment of the property or as of the time of death of the testator, whichever occurs first.

(c) If the value of the gift is expressed in the contemporaneous writing of the testator, or in an acknowledgment of the devisee made contemporaneously with the gift, that value is conclusive in the division and distribution of the estate.

6175. If the testator after execution of the will enters into an agreement for the sale or transfer of specifically devised property, the specific devisee has the right to the property subject to the remedies of the purchaser or transferee.

6176. If the testator after execution of the will places a charge or encumbrance on specifically devised property for the purpose of securing the payment of money or the performance of any covenant or agreement, the specific devisee has the right to the property subject to the charge or encumbrance.

6177. If the testator after execution of the will alters, but does not wholly divest, the testator's interest in specifically devised property by a conveyance, settlement, or other act, the specific devisee has the right to the remaining interest of the testator in the property.

6178. The rules stated in Sections 6172 to 6177, inclusive, are not exhaustive, and nothing in those sections is intended to increase the incidence of ademption under the law of this state.

CHAPTER 6. CALIFORNIA STATUTORY WILL

Article 1. Definitions and Rules of Construction

6200. Unless the provision or context clearly requires otherwise, these definitions and rules of construction govern the construction of this chapter.

6201. "Testator" means a person choosing to adopt a California

statutory will.

6202. "Spouse" means the testator's husband or wife at the time the testator signs a California statutory will.

6203. "Executor" means both the person so designated in a California statutory will and any other person acting at any time as the executor or administrator under a California statutory will.

6204. "Trustee" means both the person so designated in a California statutory will and any other person acting at any time as the trustee under a California statutory will.

6205. "Descendants" means children, grandchildren, and their lineal descendants of all degrees.

6206. (a) A class designation of "descendants" or "children" includes (1) persons legally adopted into the class during minority and (2) persons naturally born into the class (in or out of wedlock).

(b) A reference to "descendants" in the plural includes a single descendant where the context so requires.

6207. Masculine pronouns include the feminine, and plural and singular words include each other, where appropriate.

6208. (a) If a California statutory will states that a person shall perform an act, the person is required to perform that act.

(b) If a California statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in the exercise of the person's fiduciary powers.

6209. Whenever a distribution under a California statutory will is to be made to a person's descendants, the property shall be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave descendants then living; and each living descendant of the nearest degree shall receive one share and the share of each deceased descendant of that same degree shall be divided among his or her descendants in the same manner.

6210. "Person" includes individuals and institutions.

Article 2. General Provisions

6220. Any individual of sound mind and over the age of 18 may execute a California statutory will under the provisions of this chapter.

6221. A California statutory will shall be executed only as follows:

(a) The testator shall complete the appropriate blanks and shall sign the will.

(b) Each witness shall observe the testator's signing and each witness shall sign his or her name in the presence of the testator.

6221.5. The execution of the attestation clause provided in the California statutory will by two or more witnesses satisfies Section 329.

6222. (a) There are two California statutory wills:

(1) A California statutory will.

(2) A California statutory will with trust.

(b) Each California statutory will includes all of the following:

(1) The contents of the appropriate California statutory will form, including the notice set out in Section 6240 or 6241.

(2) By reference, the full texts of each of the following:

(A) The definitions and rules of construction set forth in Article 1 (commencing with Section 6200).

(B) The clause set forth in Section 6242.

(c) The property disposition clause adopted by the testator.

(d) The mandatory clauses set forth in Section 6245 and, if applicable, 6246.

6223. If more than one property disposition clause appearing in paragraph 2.3 of a California statutory will form is selected, or if none is selected, the property of a testator who signs a California statutory will shall be distributed to the testator's heirs as if the testator did not make a will.

6224. Only the texts of the property disposition clauses and the mandatory clauses shall be considered in determining their meaning. Their titles shall be disregarded.

6225. (a) A California statutory will may be revoked and may be amended by codicil in the same manner as other wills.

(b) Any additions to or deletions from the California statutory will on the face of the California statutory will form, other than in accordance with the instructions, are ineffective and shall be disregarded.

6226. (a) If after executing a California statutory will the testator's marriage is dissolved or annulled, the dissolution or annulment revokes any disposition of property made by the will to the former spouse and any nomination of the former spouse as executor, trustee, or guardian made by the will. If any disposition or nomination is revoked solely by this section, it is revived by the testator's remarriage to the former spouse.

(b) In case of revocation by dissolution or annulment:

(1) Property prevented from passing to a former spouse because of the revocation passes as if the former spouse failed to survive the testator.

(2) Provisions nominating the former spouse as executor, trustee, or guardian shall be interpreted as if the former spouse failed to survive the testator.

(c) For purposes of this section, divorce or annulment means any dissolution or annulment that would exclude the spouse as a surviving spouse within the meaning of Section 78. A decree of legal separation which does not terminate the status of husband and wife is not a divorce or dissolution for purposes of this section.

(d) This section applies to any California statutory will, without regard to the time when the will was executed, if the testator dies after December 31, 1984.

Article 3. Form and Full Text of Clauses

6240. The following is the California statutory will form:

CALIFORNIA STATUTORY WILL

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1. IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A CALIFORNIA LAWYER BECAUSE THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY AND PROPERTY.

2. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS OR YOUR SPOUSE'S SHARE OF COMMUNITY PROPERTY, AND IT WILL NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.

3. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.

4. YOU CANNOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF THIS CALIFORNIA STATUTORY WILL. IF YOU DO, THE CHANGE OR THE DELETED OR ADDED WORDS WILL BE DISREGARDED AND THIS WILL MAY BE GIVEN EFFECT AS IF THE CHANGE, DELETION, OR ADDITION HAD NOT BEEN MADE. YOU MAY REVOKE THIS CALIFORNIA STATUTORY WILL AND YOU MAY AMEND IT BY CODICIL.

5. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

6. THE FULL TEXT OF THIS CALIFORNIA STATUTORY WILL, THE DEFINITIONS AND RULES OF CONSTRUCTION, THE PROPERTY DISPOSITION CLAUSES, AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF CALIFORNIA.

7. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL.

8. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.

9. THIS WILL TREATS MOST ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.

10. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS

WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

11. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO USE THE CALIFORNIA STATUTORY WILL WITH TRUST OR ANOTHER TYPE OF WILL.

[A printed form for a California statutory will shall set forth the above notice in 10-point boldface type.]

CALIFORNIA STATUTORY WILL OF

_____

(Insert Your Name)

Article 1. Declaration

This is my will and I revoke any prior wills and codicils.

Article 2. Disposition of My Property

2.1. PERSONAL AND HOUSEHOLD ITEMS. I give all my furniture, furnishings, household items, personal automobiles and personal items to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2. CASH GIFT TO A PERSON OR CHARITY. I make the following cash gift to the person or charity in the amount stated in words and figures in the box which I have completed and signed. If I fail to sign in the box, no gift is made. If the person mentioned does not survive me, or the charity designated does not accept the gift, then no gift is made. No death tax shall be paid from this gift.

FULL NAME OF PERSON OR CHARITY TO RECEIVE CASH GIFT (Name only one. Please print.).	AMOUNT OF GIFT $_____ AMOUNT WRITTEN OUT: _____ Dollars
	_____ Signature of Testator

2.3. ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one Property Disposition Clause in this paragraph 2.3 by writing my signature in the box next to the title of the Property Disposition Clause I wish to adopt. I sign in only one box. I write the words "not used" in the remaining boxes. If I sign in more than one box or if I fail to sign in any box, the property will be

distributed as if I did not make a will.

PROPERTY DISPOSITION CLAUSES (Select one.)

(a) TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD. ☐

(b) TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD. I LEAVE NOTHING TO MY SPOUSE, IF LIVING. _____ ☐

(c) TO BE DISTRIBUTED AS IF I DID NOT HAVE A WILL. _____ ☐

Article 3. Nominations of Executor and Guardian

3.1. EXECUTOR (Name at least one.)
I nominate the person or institution named in the first box of this paragraph 3.1 to serve as executor of this will. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST EXECUTOR. _____ ☐

SECOND EXECUTOR. _____ ☐

THIRD EXECUTOR. _____ ☐

3.2. GUARDIAN (If you have a child under 18 years of age, you should name at least one guardian of the child's person and at least

one guardian of the child's property. The guardian of the child's person and the guardian of the child's property may, but need not, be the same. An individual can serve as guardian of either the person or the property, or as guardian of both. An institution can serve only as guardian of the property.)

If a guardian is needed for any child of mine, then I nominate the individual named in the first box of this paragraph 3.2 to serve as guardian of the person of that child, and I nominate the individual or institution named in the second box of this paragraph 3.2 to serve as guardian of the property of that child. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST GUARDIAN OF THE PERSON. _____	
FIRST GUARDIAN OF THE PROPERTY. _____	
SECOND GUARDIAN OF THE PERSON. _____	
SECOND GUARDIAN OF THE PROPERTY. _____	
THIRD GUARDIAN OF THE PERSON. _____	
THIRD GUARDIAN OF THE PROPERTY. _____	

3.3. BOND. My signature in this box means that a bond is not required for any individual named in this will as executor or guardian. If I do not sign in this box, then a bond is required for each of those persons as set forth in the Probate Code. (The bond

provides a fund to pay those who do not receive the share of your estate to which they are entitled, including your creditors, because of improper performance of duties by the executor or guardian. Bond premiums are paid out of your estate.)

I sign my name to this California Statutory Will on _____ at _____, _____.
Date City State

_____
Signature of Testator

STATEMENT OF WITNESSES (You must use two adult witnesses and three would be preferable.)

Each of us declares under penalty of perjury under the laws of California that the testator signed this California statutory will in our presence, all of us being present at the same time, and we now, at the testator's request, in the testator's presence, and in the presence of each other, sign below as witnesses, declaring that the testator appears to be of sound mind and under no duress, fraud, or undue influence.

Signature _____ Residence Address: _____
Print Name
Here: _____

Signature _____ Residence Address: _____
Print Name
Here: _____

Signature _____ Residence Address: _____
Print Name
Here: _____

6241. The following is the California statutory will with trust form:

CALIFORNIA STATUTORY WILL WITH TRUST

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1. THIS FORM CONTAINS A TRUST FOR YOUR DESCENDANTS. IF YOU DO NOT WANT TO CREATE A TRUST, DO NOT USE THIS FORM.

2. IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A CALIFORNIA LAWYER BECAUSE THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY AND PROPERTY.

3. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS OR YOUR SPOUSE'S SHARE OF COMMUNITY PROPERTY, AND IT WILL NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.

4. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.

5. YOU CANNOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF THIS CALIFORNIA STATUTORY WILL. IF YOU DO, THE CHANGE OR THE DELETED OR ADDED WORDS WILL BE DISREGARDED AND THIS WILL MAY BE GIVEN EFFECT AS IF THE CHANGE, DELETION, OR ADDITION HAD NOT BEEN MADE. YOU MAY REVOKE THIS CALIFORNIA STATUTORY WILL AND YOU MAY AMEND IT BY CODICIL.

6. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

7. THE FULL TEXT OF THIS CALIFORNIA STATUTORY WILL, THE DEFINITIONS AND RULES OF CONSTRUCTION, THE PROPERTY DISPOSITION CLAUSES, AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF CALIFORNIA.

8. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL.

9. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.

10. THIS WILL TREATS MOST ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.

11. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

[A printed form for a California Statutory Will With Trust shall set forth the above notice in 10-point bold face type.]

CALIFORNIA STATUTORY WILL
WITH TRUST OF

_____
(Insert Your Name)

Article 1. Declaration

This is my will and I revoke any prior wills and codicils.

Article 2. Disposition of My Property

2.1. PERSONAL AND HOUSEHOLD ITEMS. I give all my furniture, furnishings, household items, personal automobiles, and personal items to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2. CASH GIFT TO A PERSON OR CHARITY. I make the following cash gift to the person or charity in the amount stated in words and figures in the box which I have completed and signed. If I fail to sign in the box, no gift is made. If the person mentioned does not survive me, or the charity designated does not accept the gift, then no gift is made. No death tax shall be paid from this gift.

FULL NAME OF PERSON OR CHARITY TO RECEIVE CASH GIFT (Name only one. Please print.).	AMOUNT OF GIFT $ _____ AMOUNT WRITTEN OUT: _____ Dollars
	_____ Signature of Testator

2.3. ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one Property Disposition Clause in this paragraph 2.3 by writing my signature in the box next to the title of the Property Disposition Clause I wish to adopt. I sign in only one box. I write

the words "not used" in the remaining boxes. If I sign in more than one box or if I fail to sign in any box, the property will be distributed as if I did not make a will.

PROPERTY DISPOSITION CLAUSES (Select one.)

(a) TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN IN ONE TRUST TO PROVIDE FOR THE SUPPORT AND EDUCATION OF MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE. _____ [ ]

(b) TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD IN ONE TRUST TO PROVIDE FOR THEIR SUPPORT AND EDUCATION UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE. I LEAVE NOTHING TO MY SPOUSE, IF LIVING. ____ [ ]

Article 3. Nominations of Executor, Trustee, and Guardian

3.1. EXECUTOR (Name at least one.)

I nominate the person or institution named in the first box of this paragraph 3.1 to serve as executor of this will. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST EXECUTOR. _____ [ ]

SECOND EXECUTOR. _____ [ ]

THIRD EXECUTOR. _____

3.2. TRUSTEE (Name at least one.)

Because it is possible that after I die my property may be put into a trust, I nominate the person or institution named in the first box of this paragraph 3.2 to serve as trustee of that trust. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST TRUSTEE. _____

SECOND TRUSTEE. _____

THIRD TRUSTEE. _____

3.3. GUARDIAN (If you have a child under 18 years of age, you should name at least one guardian of the child's person and at least one guardian of the child's property. The guardian of the child's person and the guardian of the child's property may, but need not, be the same. An individual can serve as guardian of either the person or the property, or as guardian of both. An institution can serve only as guardian of the property.)

If a guardian is needed for any child of mine, then I nominate the individual named in the first box of this paragraph 3.3 to serve as guardian of the person of that child, and I nominate the individual or institution named in the second box of this paragraph 3.3 to serve as guardian of the property of that child. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST GUARDIAN OF THE PERSON. _____

FIRST GUARDIAN OF THE PROPERTY. _____

SECOND GUARDIAN OF THE PERSON. _____ [ ]

SECOND GUARDIAN OF THE PROPERTY. _____ [ ]

THIRD GUARDIAN OF THE PERSON. _____ [ ]

THIRD GUARDIAN OF THE PROPERTY. _____ [ ]

3.4. BOND. My signature in this box means that a bond is not required for any individual named in this will as executor, trustee, or guardian. If I do not sign in this box, then a bond is required for each of those persons as set forth in the Probate Code. (The bond provides a fund to pay those who do not receive the share of your estate to which they are entitled, including your creditors, because of improper performance of duties by the executor, trustee, or guardian. Bond premiums are paid out of your estate.)

[ ]

I sign my name to this California Statutory Will With Trust on _____ at _____, _____.
Date City State

_____
Signature of Testator

STATEMENT OF WITNESSES (You must use two adult witnesses, and three witnesses would be preferable.)

Each of us declares under penalty of perjury under the laws of California that the testator signed this California statutory will with trust in our presence, all of us being present at the same time, and we now, at the testator's request, in the testator's presence, and in the presence of each other, sign below as witnesses, declar-

ing that the testator appears to be of sound mind and under no duress, fraud, or undue influence.

Signature _____ Residence Address: _____
Print Name
Here: _____

Signature _____ Residence Address: _____
Print Name
Here: _____

Signature _____ Residence Address: _____
Print Name
Here: _____

6242. The following is the full text of paragraph 2.1 of both California statutory will forms appearing in this chapter:

If my spouse survives me, I give my spouse all my books, jewelry, clothing, personal automobiles, household furnishings and effects, and other tangible articles of a household or personal use. If my spouse does not survive me, the executor shall distribute those items among my children who survive me, and shall distribute those items in as nearly equal shares as feasible in the executor's discretion. If none of my children survive me, the items described in this paragraph shall become part of the residuary estate.

6243. The following are the full texts of the property disposition clauses referred to in paragraph 2.3 of the California statutory will form set forth in Section 6240:

(a) TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD.

If my spouse survives me, then I give all my residuary estate to my spouse. If my spouse does not survive me, then I give all my residuary estate to my descendants who survive me.

(b) TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD. I LEAVE NOTHING TO MY SPOUSE, IF LIVING.

I give all my residuary estate to my descendants who survive me. I leave nothing to my spouse, even if my spouse survives me.

(c) TO BE DISTRIBUTED AS IF I DID NOT HAVE A WILL:

The executor shall distribute my residuary estate to my heirs at law, their identities and respective shares to be determined according to the laws of the State of California in effect on the date of my death relating to intestate succession.

6244. The following are the full texts of the property disposition clauses referred to in paragraph 2.3 of the California statutory will with trust form set forth in Section 6241:

(a) TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN IN ONE TRUST TO PROVIDE FOR THE SUPPORT AND EDUCA-

TION OF MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE.

(1) If my spouse survives me, then I give all my residuary estate to my spouse.

(2) If my spouse does not survive me and if any child of mine under 21 years of age survives me, then I give all my residuary estate to the trustee, in trust, on the following terms:

(A) As long as any child of mine under 21 years of age is living, the trustee shall distribute from time to time to or for the benefit of any one or more of my children and the descendants of any deceased child (the beneficiaries) of any age as much, or all, of the (i) principal or (ii) net income of the trust, or (iii) both, as the trustee deems necessary for their health, support, maintenance, and education. Any undistributed income shall be accumulated and added to the principal. "Education" includes, but is not limited to, college, graduate, postgraduate, and vocational studies, and reasonably related living expenses. Consistent with the trustee's fiduciary duties, the trustee may distribute trust income or principal in equal or unequal shares and to any one or more of the beneficiaries to the exclusion of other beneficiaries. In deciding on distributions, the trustee may take into account, so far as known to the trustee, the beneficiaries' other income, outside resources, or sources of support, including the capacity for gainful employment of a beneficiary who has completed his or her education.

(B) The trust shall terminate when there is no living child of mine under 21 years of age. The trustee shall distribute any remaining principal and accumulated net income of the trust to my descendants who are then living.

(3) If my spouse does not survive me and if no child of mine under 21 years of age survives me, then I give all my residuary estate to my descendants who survive me.

(b) TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD IN ONE TRUST TO PROVIDE FOR THEIR SUPPORT AND EDUCATION UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE. I LEAVE NOTHING TO MY SPOUSE, IF LIVING.

(1) I give all my residuary estate to the trustee, in trust, on the following terms:

(A) As long as any child of mine under 21 years of age is living, the trustee shall distribute from time to time to or for the benefit of any one or more of my children and the descendants of any deceased child (the beneficiaries) of any age as much or all, of the (i) principal, or (ii) net income of the trust, or (iii) both, as the trustee deems necessary for their health, support, maintenance, and education. Any undistributed income shall be accumulated and added to the principal. "Education" includes, but is not limited to, college, graduate, postgraduate, and vocational studies,

and reasonably related living expenses. Consistent with the trustee's fiduciary duties, the trustee may distribute trust income or principal in equal or unequal shares and to any one or more of the beneficiaries to the exclusion of other beneficiaries. In deciding on distributions, the trustee may take into account, so far as known to the trustee, the beneficiaries' other income, outside resources, or sources of support, including the capacity for gainful employment of a beneficiary who has completed his or her education.

(B) The trust shall terminate when there is no living child of mine under 21 years of age. The trustee shall distribute any remaining principal and accumulated net income of the trust to my descendants who are then living.

(2) If no child of mine under 21 years of age survives me, then I give all my residuary estate to my descendants who survive me.

(3) I leave nothing to my spouse, even if my spouse survives me.

6245. The mandatory clauses of all California statutory wills are as follows:

(a) INTESTATE DISPOSITION. If the testator has not made an effective disposition of the residuary estate, the executor shall distribute it to the testator's heirs at law, their identities and respective shares to be determined according to the laws of the State of California in effect on the date of the testator's death relating to intestate succession.

(b) POWERS OF EXECUTOR. (1) In addition to any powers now or hereafter conferred upon executors by law, including all powers granted under the Independent Administration of Estates Act, the executor shall have the power to: (A) sell estate assets at public or private sale, for cash or on credit terms, (B) lease estate assets without restriction as to duration, and (C) invest any surplus moneys of the estate in real or personal property, as the executor deems advisable.

(2) The executor may distribute estate assets otherwise distributable to a minor beneficiary to (A) the guardian of the minor's person or estate, (B) any adult person with whom the minor resides and who has the care, custody, or control of the minor, or (C) a custodian, serving on behalf of the minor under the Uniform Gifts to Minors Act of any state.

The executor is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph.

(3) On any distribution of assets from the estate, the executor shall have the discretion to partition, allot, and distribute the assets (A) in kind, including undivided interests in an asset or in any part of it, or (B) partly in cash and partly in kind, or (C) entirely in cash. If a distribution is being made to more than one beneficiary, the executor shall have the discretion to distribute assets among them on a pro rata or non-pro rata basis, with the assets valued as

of the date of distribution.

(c) POWERS OF GUARDIAN. A guardian of the person nominated in the California statutory will shall have the same authority with respect to the person of the ward as a parent having legal custody of a child would have. A guardian of the estate nominated in a California statutory will shall have all of the powers conferred by law. All powers granted to guardians in this paragraph may be exercised without court authorization.

6246. In addition to the mandatory clauses contained in Section 6245, the California statutory will with trust form shall also incorporate the following mandatory clauses:

(a) INEFFECTIVE DISPOSITION. If, at the termination of any trust created in the California statutory will with trust, there is no effective disposition of the remaining trust assets, then the trustee shall distribute those assets to the testator's then living heirs at law, their identities and respective shares to be determined as though the testator had died on the date of the trust's termination and according to the laws of the State of California then in effect relating to intestate succession.

(b) POWERS OF TRUSTEE. (1) In addition to any powers now or hereafter conferred upon trustees by law, the trustee shall have all the powers listed in Section 1120.2. The trustee may exercise those powers without court authorization.

(2) In addition to the powers granted in the foregoing paragraph, the trustee may:

(A) Hire and pay from the trust the fees of investment advisors, accountants, tax advisors, agents, attorneys, and other assistants for the administration of the trust and for the management of any trust asset and for any litigation affecting the trust.

(B) On any distribution of assets from the trust, the trustee shall have the discretion to partition, allot, and distribute the assets (i) in kind, including undivided interests in an asset or in any part of it, or (ii) partly in cash and partly in kind, or (iii) entirely in cash. If a distribution is being made to more than one beneficiary, the trustee shall have the discretion to distribute assets among them on a pro rata or non-pro rata basis, with the assets valued as of the date of distribution.

(C) The trustee may, upon termination of the trust, distribute assets to a custodian for a minor beneficiary under the Uniform Gifts to Minors Act of any state.

(3) The trustee is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph.

(c) TRUST ADMINISTRATIVE PROVISIONS. The following provisions shall apply to any trust created by a California statutory will with trust:

(1) The interests of trust beneficiaries are not transferable by voluntary or involuntary assignment or by operation of law and shall be free from the claims of creditors and from attachment,

execution, bankruptcy, or other legal process to the fullest extent permissible by law.

(2) The trustee is entitled to reasonable compensation for ordinary and extraordinary services, and for all services in connection with the complete or partial termination of any trust created by this will.

(3) All persons who have any interest in a trust under a California statutory will with trust are bound by all discretionary determinations the trustee makes in good faith under the authority granted in the California statutory will with trust.

6247. Except as specifically provided in this chapter, a California statutory will shall include only the texts of the property disposition clauses and the mandatory clauses as they exist on the day the California statutory will is executed.

6248. Except as specifically provided in this chapter, nothing in this chapter changes the substantive law of California.

CHAPTER 7. UNIFORM TESTAMENTARY ADDITIONS TO TRUSTS ACT

6300. A devise, the validity of which is determinable by the law of this state, may be made by a will to the trustee of a trust established or to be established by the testator or by the testator and some other person or by some other person (including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts) if the trust is identified in the testator's will and its terms are set forth in a written instrument (other than a will) executed before or concurrently with the execution of the testator's will or in the valid last will of a person who has predeceased the testator (regardless of the existence, size, or character of the corpus of the trust). The devise is not invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised (1) is not deemed to be held under a testamentary trust of the testator but becomes a part of the trust to which it is given and (2) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator (regardless of whether made before or after the execution of the testator's will) and, if the testator's will so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator causes the devise to lapse.

6301. This chapter does not invalidate any devise made by a will executed prior to September 17, 1965.

6302. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which

enact it.

6303. This chapter may be cited as the Uniform Testamentary Additions to Trusts Act.

CHAPTER 8. TRUST FOR INSURANCE EMPLOYEE BENEFITS

6320. As used in this chapter, unless the context otherwise requires:

(a) "Contract or plan" means any of the following:

(1) An insurance, annuity, or endowment contract (including any agreement issued or entered into by the insurer in connection therewith, supplemental thereto, or in settlement thereof).

(2) A pension, retirement benefit, death benefit, stock bonus, profit-sharing or employees' saving plan, or contract created or entered into by an employer for the benefit of some or all of his or her employees.

(3) Self-employed retirement plans, and individual annuities or accounts, established or held pursuant to the Internal Revenue Code as now or hereafter amended.

(b) "Designation" means a designation made pursuant to Section 6321.

6321. A contract or plan may designate as a primary or contingent beneficiary, payee, or owner a trustee named or to be named in the will of the person entitled to designate the beneficiary, payee, or owner. The designation shall be made in accordance with the provisions of the contract or plan or, in the absence of such provisions, in a manner approved by the insurer if an insurance, annuity, or endowment contract is involved, and by the trustee, custodian, or person or entity administering the contract or plan, if any. The designation may be made before or after the execution of the designator's will and is not required to comply with the formalities for execution of a will.

6322. The designation is ineffective unless the designator's will contains provisions creating the trust or makes a disposition valid under Section 6300.

6323. Subject to the provisions of Section 6325, the benefits or rights resulting from the designation are payable or transferable directly to the trustee, without becoming subject to administration, upon or at any time after admission of the designator's will to probate. A designation pursuant to this chapter shall not be deemed to have the effect of naming a trustee of a separate inter vivos trust but the rights and benefits or the proceeds thereof when paid to the trustee shall be, or become a part of, the testamentary trust or trusts established pursuant to the designator's will or shall be added to an inter vivos trust or trusts if the disposition is governed by Section 6300.

6324. Except as otherwise provided in the designator's will, the rights and benefits and their proceeds paid or transferred to the trustee are not subject to the debts of the designator to any greater

extent than if they were paid or transferred to a named beneficiary, payee, or owner other than the estate of the designator.

6325. (a) The court in which the proceedings are pending for administration of the estate of the decedent has jurisdiction, before or after payment or transfer of benefits and rights or their proceeds to the trustee, to:

(1) Determine the validity of the trust.

(2) Determine the terms of the trust.

(3) Fill vacancies in the office of trustee.

(4) Require an undertaking of a trustee or successor trustee in its discretion and in such amount as the court may determine for the faithful performance of duties as trustee, subject to the provisions of Article 3 (commencing with Section 1540) of Chapter 12 of Division 1 of the Financial Code and Section 1127.5 of this code.

(5) Grant additional powers to the trustee, as provided in Section 1120.2.

(6) Instruct the trustee.

(7) Determine, fix, or allow payment of compensation of a trustee as provided in Section 1122.

(8) Hear and determine adverse claims to the subject of the trust by the personal representative, surviving spouse, or other third person.

(9) Determine the identity of the trustee and the trustee's acceptance or rejection of the office and, upon request, furnish evidence of trusteeship to a trustee.

(10) Order postponement of the payment or transfer of the benefits and rights or their proceeds.

(11) Authorize or direct removal of the trust or assets of the trust to another jurisdiction pursuant to the procedure provided in Article 3 (commencing with Section 1139) of Chapter 19 of Division 3.

(12) Make any order incident to the foregoing or to the accomplishment of the purposes of this chapter.

(b) The personal representative of the designator's estate, any trustee named in the will or designation or successor to such trustee, or any person interested in the estate or trust may petition the court for an order under this section. Notice of hearing of the petition shall be given in the manner provided in Section 1120, except as the court may otherwise order.

6326. As to matters not specifically provided in Section 6325, the provisions of Chapter 19 (commencing with Section 1120) of Division 3 apply to the trust.

6327. An appeal may be taken from any of the following:

(a) Any order described in Section 1240 made pursuant to this chapter.

(b) An order making or refusing to make a determination specified in paragraph (1), (2), or (8) of subdivision (a) of Section 6325.

6328. If no qualified trustee makes claim to the benefits or

rights or proceeds within one year after the death of the designator, or if satisfactory evidence is furnished within such one-year period showing that no trustee can qualify to receive them, payment or transfer may be made, unless the designator has otherwise provided, by the obligor to the personal representative of the designator or to those thereafter entitled, and the obligor is discharged from liability.

6329. Enactment of this chapter does not invalidate trusts, otherwise valid, not made pursuant to the provisions of this chapter.

CHAPTER 9. DEVISE SUBJECT TO UNIFORM GIFTS TO MINORS ACT

6340. A testator may devise securities, money, life or endowment policies, annuity contracts, real estate, tangible personal property, or any other type of property, as these terms are defined or used in the California Uniform Gifts to Minors Act, Article 4 (commencing with Section 1154) of Chapter 3 of Title 4 of Part 4 of Division 2 of the Civil Code, to a person who is a minor as provided in this chapter.

6341. If a testator's will provides that devised property shall be paid or delivered to a custodian subject to the California Uniform Gifts to Minors Act, all of the provisions of that act, including, but not limited to, the definitions and the provisions concerning powers, rights, and immunities contained in that act, are applicable to the devise during the period prior to distribution of the property.

6342. The devise under this chapter shall be made to a designated adult person or a trust company qualified to do business in this state with the words, in substance, "as custodian for (name of minor) under the California Uniform Gifts to Minors Act." Failure to name a qualified custodian does not invalidate the devise as a devise permitted by this chapter. A variation in the wording of the devise from the wording set forth in this section shall be disregarded if the testator's intent to make a devise pursuant to this chapter appears from the will as a whole or from the wording of the devise.

6343. Unless the will clearly requires otherwise, a devise which does not comply with the provisions of Sections 6340, 6341, and 6342, or a devise to a person who becomes an adult prior to the order for distribution, shall be deemed to be a direct devise to the person named as the minor for whom the property was to be held.

6344. If a testator provides for a devise to be paid or delivered as provided in this chapter, the executor or administrator of the testator's estate, upon entry of an order for distribution, shall make distribution pursuant to the order for distribution by transferring the devised property in the form and manner provided by the California Uniform Gifts to Minors Act.

6345. The testator in his or her will may provide for successor or alternate custodians and may specify the standard of compensation of the custodian.

6346. If a vacancy in the custodianship exists prior to full distribution of the devised property by the executor or administrator, a successor custodian shall be appointed for any undistributed property in the manner provided by the California Uniform Gifts to Minors Act.

6347. (a) Except as otherwise provided in the will or ordered by a court, each custodian designated in the will and the person for whom the property is to be held shall be deemed a devisee for the purpose of receiving notices which may be required or permitted to be sent to a devisee in the estate of the testator.

(b) Unless required by the will or ordered by the court, a custodian does not have a duty to participate in the proceedings in the estate on behalf of the minor, and in no event does the custodian have a duty to so participate until the custodian has filed a written notice of acceptance of the office of custodian with the clerk of the court in which administration of the estate of the testator is pending.

6348. Until distribution of the property pursuant to an order for distribution is completed, the court in which administration of the estate of the testator is pending has exclusive jurisdiction over all proceedings and matters concerning undistributed property, including, but not limited to, the appointment, declination, resignation, removal, bonding, and compensation of, and the delivery or transfer of the undistributed property to, a custodian. After distribution of any property is completed, the court has no further jurisdiction over the distributed property and the property shall be held subject to the California Uniform Gifts to Minors Act in the same manner as if it had been a lifetime gift.

6349. This chapter shall not be construed as providing an exclusive method for making devises to or for the benefit of minors.

CHAPTER 11. UNIFORM INTERNATIONAL WILLS ACT

6380. In this chapter:

(a) "International will" means a will executed in conformity with Sections 6381 to 6384, inclusive.

(b) "Authorized person" and "person authorized to act in connection with international wills" means a person who by Section 6388, or by the laws of the United States including members of the diplomatic and consular service of the United States designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.

6381. (a) A will is valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of this chapter.

(b) The invalidity of the will as an international will does not affect its formal validity as a will of another kind.

(c) This chapter does not apply to the form of testamentary dispositions made by two or more persons in one instrument.

6382. (a) The will shall be made in writing. It need not be written by the testator himself or herself. It may be written in any language, by hand or by any other means.

(b) The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his or her will and that he or she knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

(c) In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if he or she has previously signed it, shall acknowledge his or her signature.

(d) If the testator is unable to sign, the absence of his or her signature does not affect the validity of the international will if the testator indicates the reason for his or her inability to sign and the authorized person makes note thereof on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name for him or her if the authorized person makes note of this also on the will, but it is not required that any person sign the testator's name for him or her.

(e) The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

6383. (a) The signatures shall be placed at the end of the will. If the will consists of several sheets, each sheet shall be signed by the testator or, if he or she is unable to sign, by the person signing on his or her behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

(b) The date of the will shall be the date of its signature by the authorized person. That date shall be noted at the end of the will by the authorized person.

(c) The authorized person shall ask the testator whether he or she wishes to make a declaration concerning the safekeeping of his or her will. If so and at the express request of the testator, the place where he or she intends to have his or her will kept shall be mentioned in the certificate provided for in Section 6384.

(d) A will executed in compliance with Section 6382 is not invalid merely because it does not comply with this section.

6384. The authorized person shall attach to the will a certificate to be signed by him or her establishing that the requirements of this chapter for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate shall be substantially in the following form:

CERTIFICATE
(Convention of October 26, 1973)

1. I, _____ ,
(name, address, and capacity)
a person authorized to act in connection with international wills,
2. certify that on _____ at _____
(date) (place)
3. _____
(testator) (name, address, date and place of birth)
in my presence and that of the witnesses
4. (a) _____
(name, address, date and place of birth)
(b) _____
(name, address, date and place of birth)
has declared that the attached document is his will and that he knows the contents thereof.
5. I furthermore certify that:
6. (a) in my presence and in that of the witnesses
(1) the testator has signed the will or has acknowledged his signature previously affixed.
(2) following a declaration of the testator stating that he was unable to sign his will for the following reason _____ , I have mentioned this declaration on the will,*
and the signature has been affixed by
_____
(name and address)*
7. (b) the witnesses and I have signed the will;
8. (c) each page of the will has been signed
by _____ and numbered;*
9. (d) I have satisfied myself as to the identity of the testator and of the witnessses as designated above;
10. (e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;
11. (f) the testator has requested me to include the following statement concerning the safekeeping of his will:*

---

12. PLACE OF EXECUTION
13. DATE
14. SIGNATURE and, if necesssary, SEAL

*to be completed if appropriate

6385. In the absence of evidence to the contrary, the certificate of the authorized person is conclusive of the formal validity

of the instrument as a will under this chapter. The absence or irregularity of a certificate does not affect the formal validity of a will under this chapter.

6386. The international will is subject to the ordinary rules of revocation of wills.

6387. Sections 6380 to 6386, inclusive, derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying this chapter, regard shall be had to its international origin and to the need for uniformity in its interpretation.

6388. Individuals who have been admitted to practice law before the courts of this state and who are in good standing as active law practitioners of this state are authorized persons in relation to international wills.

6389. The Secretary of State shall establish a registry system by which authorized persons may register in a central information center information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will who presents a death certificate or other satisfactory evidence of the testator's death to the center. Information that may be received, preserved in confidence until death, and reported as indicated is limited to the name, social security or other individual identifying number established by law, if any, address, date and place of birth of the testator, and the intended place of deposit or safekeeping of the instrument pending the death of the maker. The Secretary of State, at the request of the authorized person, may cause the information it receives about execution of any international will to be transmitted to the registry system of another jurisdiction as identified by the testator, if that other system adheres to rules protecting the confidentiality of the information similar to those established in this state.

PART 2. INTESTATE SUCCESSION

6400. Any part of the estate of a decedent not effectively disposed of by will passes to the decedent's heirs as prescribed in this part.

6401. (a) As to community property, the intestate share of the surviving spouse is the one-half of the community property that belongs to the decedent under Section 100.

(b) As to quasi-community property, the intestate share of the surviving spouse is the one-half of the quasi-community property that belongs to the decedent under Section 101.

(c) As to separate property, the intestate share of the surviving spouse is as follows:

(1) The entire intestate estate if the decedent did not leave any surviving issue, parent, brother, sister, or issue of a deceased brother or sister.

(2) One-half of the intestate estate in the following cases:

(A) Where the decedent leaves only one child or the issue of a deceased child.

(B) Where the decedent leaves no issue but leaves the parent or parents or their issue or the issue of either of them.

(3) One-third of the intestate estate in the following cases:

(A) Where the decedent leaves more than one child living.

(B) Where the decedent leaves one child living and the issue of one or more deceased children.

(C) Where the decedent leaves issue of two or more deceased children.

6402. Except as provided in Section 6402.5, the part of the intestate estate not passing to the surviving spouse under Section 6401, or the entire intestate estate if there is no surviving spouse, passes as follows:

(a) To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation.

(b) If there is no surviving issue, to the decedent's parent or parents equally.

(c) If there is no surviving issue or parent, to the issue of the parents or either of them, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation.

(d) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, to the grandparent or grandparents equally, or to the issue of such grandparents if there is no surviving grandparent, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degrees take by representation.

(e) If there is no surviving issue, parent or issue of a parent, grandparent or issue of a grandparent, but the decedent is survived by the issue of a predeceased spouse, to such issue, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree, those of more remote degree take by representation.

(f) If there is no surviving issue, parent or issue of a parent, grandparent or issue of a grandparent, or issue of a predeceased spouse, but the decedent is survived by next of kin, to the next of kin in equal degree, but when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote.

(g) If there is no surviving next of kin of the decedent and no surviving issue of a predeceased spouse of the decedent, but the decedent is survived by the parents of a predeceased spouse or the issue of such parents, to the parent or parents equally, or to the

issue of such parents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take by representation.

6402.5. (a) If the decedent had a predeceased spouse who died not more than 15 years before the decedent and there is no surviving spouse or issue of the decedent, the portion of the decedent's estate attributable to the decedent's predeceased spouse passes as follows:

(1) If the decedent is survived by issue of the predeceased spouse, to the surviving issue of the predeceased spouse; if they are all of the same degree of kinship to the predeceased spouse they take equally, but if of unequal degree those of more remote degree take by representation.

(2) If there is no surviving issue of the predeceased spouse but the decedent is survived by a parent or parents of the predeceased spouse, to the predeceased spouse's surviving parent or parents equally.

(3) If there is no surviving issue or parent of the predeceased spouse but the decedent is survived by issue of a parent of the predeceased spouse, to the surviving issue of the parents of the predeceased spouse or either of them, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take by representation.

(4) If the decedent is not survived by issue, parent, or issue of a parent of the predeceased spouse, to the next of kin of the decedent in the manner provided in Section 6402.

(5) If the portion of the decedent's estate attributable to the decedent's predeceased spouse would otherwise escheat to the state because there is no kin of the decedent to take under Section 6402, the portion of the decedent's estate attributable to the predeceased spouse passes to the next of kin of the predeceased spouse who shall take in the same manner as the next of kin of the decedent take under Section 6402.

(b) For the purposes of this section, the "portion of the decedent's estate attributable to the decedent's predeceased spouse" means all of the following property in the decedent's estate:

(1) One-half of the community real property in existence at the time of the death of the predeceased spouse.

(2) One-half of any community real property, in existence at the time of death of the predeceased spouse, which was given to the decedent by the predeceased spouse by way of gift, descent, or devise.

(3) That portion of any community real property in which the predeceased spouse had any incident of ownership and which vested in the decedent upon the death of the predeceased spouse by right of survivorship.

(4) Any separate real property of the predeceased spouse

which came to the decedent by gift, descent, or devise of the predeceased spouse or which vested in the decedent upon the death of the predeceased spouse by right of survivorship.

(c) For the purposes of this section, quasi-community real property shall be treated the same as community real property.

(d) For the purposes of this section:

(1) Relatives of the predeceased spouse conceived before the decedent's death but born thereafter inherit as if they had been born in the lifetime of the decedent.

(2) A person who is related to the predeceased spouse through two lines of relationship is entitled to only a single share based on the relationship which would entitle the person to the larger share.

6403. A person who fails to survive the decedent is deemed to have predeceased the decedent for the purpose of intestate succession, and the heirs are determined accordingly. If it cannot be established by clear and convincing evidence that a person who would otherwise be an heir has survived the decedent, it is deemed that the person failed to survive the decedent.

6404. Part 4 (commencing with Section 6800) (escheat) applies if there is no taker of the intestate estate under the provisions of this part.

6406. Relatives of the halfblood inherit the same share they would inherit if they were of the whole blood.

6407. Relatives of the decedent conceived before the decedent's death but born thereafter inherit as if they had been born in the lifetime of the decedent.

6408. (a) If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) Except as provided in paragraph (3), the relationship of parent and child exists between a person and his or her natural parents, regardless of the marital status of the natural parents.

(2) The relationship of parent and child exists between an adopted person and his or her adopting parent or parents. The relationship between a person and his or her foster parent, and between a person and his or her stepparent, has the same effect as if it were an adoptive relationship if (i) the relationship began during the person's minority and continued throughout the parties' joint lifetimes and (ii) it is established by clear and convincing evidence that the foster parent or stepparent would have adopted the person but for a legal barrier.

(3) The relationship of parent and child does not exist between an adopted person and his or her natural parent unless (i) the natural parent and adopted person lived together at any time as parent and child and (ii) the adoption was by the spouse of either of the natural parents of the adopted person or after the death of either of the natural parents.

(b) For the purposes of intestate succession:

(1) A parent and child relationship is established where that relationship is presumed and not rebutted pursuant to the Uniform Parentage Act, Part 7 (commencing with Section 7000) of Division 4 of the Civil Code.

(2) A parent and child relationship may be established pursuant to any other provisions of the Uniform Parentage Act, except that the relationship may not be established for the purposes of intestate succession by an action under subdivision (c) of Section 7006 of the Civil Code unless either (i) a court order was entered during the father's lifetime declaring paternity or (ii) paternity is established by clear and convincing evidence that the father has openly and notoriously held out the child as his own.

6408.5. Notwithstanding Section 6408:

(a) Except for the issue of the child or a wholeblood brother or sister of the child or the issue of such brother or sister, neither a parent nor a relative of a parent inherits from or through a child on the basis of the relationship of parent and child between that parent and child if the child has been adopted by someone other than the spouse or surviving spouse of that parent.

(b) Neither a parent nor a relative of a parent inherits from or through a child on the basis of the relationship of parent and child between that parent and child if the child was born out of wedlock and has neither been acknowledged by nor supported by that parent.

6409. (a) If a person dies intestate as to all his or her estate, property the decedent gave during lifetime to an heir is treated as an advancement against that heir's share of the estate only if one of the following conditions is satisfied:

(1) The decedent declares in a contemporaneous writing that the gift is to be deducted from the heir's share of the estate or that the gift is an advancement against the heir's share of the estate.

(2) The heir acknowledges in writing that the gift is to be so deducted or is an advancement.

(b) Subject to subdivision (c), the property advanced is to be valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the decedent, whichever occurs first.

(c) If the value of the property advanced is expressed in the contemporaneous writing of the decedent, or in an acknowledgment of the heir made contemporaneously with the advancement, that value is conclusive in the division and distribution of the estate.

(d) If the recipient of the property advanced fails to survive the decedent, the property is not taken into account in computing the intestate share to be received by the recipient's issue unless the declaration or acknowledgment provides otherwise.

6410. (a) A debt owed to the decedent is not charged against the intestate share of any person except the debtor.

(b) If the debtor fails to survive the decedent, the debt is not

taken into account in computing the intestate share of the debtor's issue.

6411. No person is disqualified to take as an heir because that person or a person through whom he or she claims is or has been an alien.

6412. The estates of dower and curtesy are not recognized.

6413. A person who is related to the decedent through two lines of relationship is entitled to only a single share based on the relationship which would entitle the person to the larger share.

PART 3. FAMILY PROTECTION

CHAPTER 1. TEMPORARY POSSESSION OF FAMILY DWELLING AND EXEMPT PROPERTY

6500. Until the inventory is filed and for a period of 60 days thereafter, or for such other period as may be ordered by the court for good cause on petition therefor, the decedent's surviving spouse and minor children are entitled to remain in possession of the family dwelling, the wearing apparel of the family, the household furniture, and the other property of the decedent exempt from enforcement of a money judgment.

6501. A petition for an order under Section 6500 may be filed by any interested person. The court clerk shall set the petition for hearing by the court, and the petitioner shall give notice of the hearing for the period and in the manner required by Section 1200.5.

CHAPTER 2. SETTING ASIDE EXEMPT PROPERTY OTHER THAN FAMILY DWELLING

6510. Upon the filing of the inventory or at any subsequent time during the administration of the estate, the court in its discretion may on petition therefor set apart all or any part of the property of the decedent exempt from enforcement of a money judgment, other than the family dwelling, to any one or more of the following:

(a) The surviving spouse.

(b) The minor children of the decedent.

6511. A petition for an order under Section 6510 may be filed by any interested person. The court clerk shall set the petition for hearing by the court, and the petitioner shall give notice of the hearing for the period and in the manner required by Section 1200.5.

CHAPTER 3. SETTING ASIDE PROBATE HOMESTEAD

6520. Upon the filing of the inventory or at any subsequent time during the administration of the estate, the court in its discre-

tion may on petition therefor select and set apart one probate homestead in the manner provided in this chapter.

6521. The probate homestead shall be set apart for the use of one or more of the following persons:

(a) The surviving spouse.

(b) The minor children of the decedent.

6522. (a) The probate homestead shall be selected out of the following property, giving first preference to the community and quasi-community property of, or property owned in common by, the decedent and the person entitled to have the homestead set apart:

(1) If the homestead is set apart for the use of the surviving spouse or for the use of the surviving spouse and minor children, out of community property or quasi-community property.

(2) If the homestead is set apart for the use of the surviving spouse or for the use of the minor children, out of property owned in common by the decedent and the person entitled to have the homestead set apart, or out of the separate property of the decedent or, if the decedent was not married at the time of death, out of property owned by the decedent.

(b) The probate homestead shall not be selected out of property the right to possession of which is vested in a third person unless the third person consents thereto. As used in this subdivision, "third person" means a person whose right to possession of the property (1) existed at the time of the death of the decedent or came into existence upon the death of the decedent and (2) was not created by testate or intestate succession from the decedent.

6523. (a) In selecting and setting apart the probate homestead, the court shall consider the needs of the surviving spouse and minor children, the liens and encumbrances on the property, the claims of creditors, the needs of the heirs or devisees of the decedent, and the intent of the decedent with respect to the property in the estate and the estate plan of the decedent as expressed in inter vivos and testamentary transfers or by other means.

(b) The court, in light of subdivision (a) and other relevant considerations as determined by the court in its discretion, shall:

(1) Select as a probate homestead the most appropriate property available that is suitable for that use, including in addition to the dwelling itself such adjoining property as appears reasonable.

(2) Set the probate homestead so selected apart for such a term and upon such conditions (including, but not limited to, assignment by the homestead recipient of other property to the heirs or devisees of the property set apart as a homestead) as appear proper.

6524. The property set apart as a probate homestead shall be set apart only for a limited period, to be designated in the order, and in no case beyond the lifetime of the surviving spouse, or, as to a child, beyond its minority. Subject to the probate homestead

right, the property of the decedent remains subject to administration including testate and intestate succession. The rights of the parties during the period for which the probate homestead is set apart are governed, to the extent applicable, by the Legal Estates Principal and Income Law, Chapter 2.6 (commencing with Section 731) of Title 2 of Part 1 of Division 2 of the Civil Code.

6525. A petition to select and set apart a probate homestead may be filed by any interested person. The court clerk shall set the petition for hearing by the court, and the petitioner shall give notice of the hearing for the period and in the manner required by Section 1200.5.

6526. (a) Property of the decedent set apart as a probate homestead is liable for claims against the estate of the decedent, subject to the probate homestead right. The probate homestead right in property of the decedent is liable for claims that are secured by liens and encumbrances on the property at the time of the decedent's death but is exempt to the extent of the homestead exemption as to any claim that would have been subject to a homestead exemption at the time of the decedent's death under Article 4 (commencing with Section 704.710) of Chapter 4 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(b) The probate homestead right in the property of the decedent is not liable for claims against the person for whose use the probate homestead is set apart.

(c) Property of the decedent set apart as a probate homestead is liable for claims against the testate or intestate successors of the decedent or other successors to the property after administration, subject to the probate homestead right.

6527. (a) The court may by order modify the term or conditions of the probate homestead right or terminate the probate homestead right at any time prior to entry of a final decree of distribution of the decedent's estate if in the court's discretion to do so appears appropriate under the circumstances of the case.

(b) A petition for an order under this section may be filed by any of the following:

(1) The person for whose use the probate homestead is set apart.

(2) The testate or intestate successors of the decedent or other successors to the property set apart as a probate homestead.

(3) Persons having claims secured by liens or encumbrances on the property set apart as a probate homestead.

(c) Notice of the hearing on the petition shall be given to all the persons listed in subdivision (b) (other than the petitioner) for the period and in the manner required by Section 1200.5.

6528. Nothing in this chapter terminates or otherwise affects a declaration of homestead by, or for the benefit of, a surviving spouse or minor child of the decedent with respect to the community, quasi-community, or common interest of the surviving spouse or minor child in property in the decedent's estate. This

section is declaratory of, and does not constitute a change in, existing law.

CHAPTER 4. FAMILY ALLOWANCE

6540. (a) The following are entitled to such reasonable family allowance out of the estate as is necessary for their maintenance according to their circumstances during administration of the estate:

(1) The surviving spouse of the decedent.

(2) Minor children of the decedent.

(3) Adult children of the decedent who are physically or mentally incapacitated from earning a living and were actually dependent in whole or in part upon the decedent for support.

(b) The following may be given such reasonable family allowance out of the estate as the court in its discretion determines is necessary for their maintenance according to their circumstances during administration of the estate:

(1) Other adult children of the decedent who were actually dependent in whole or in part upon the decedent for support.

(2) A parent of the decedent who was actually dependent in whole or in part upon the decedent for support.

(c) If a person otherwise eligible for family allowance has a reasonable maintenance from other sources and there are one or more other persons entitled to a family allowance, the family allowance shall be granted only to those who do not have a reasonable maintenance from other sources.

6541. (a) The court may grant or modify a family allowance on petition of any interested person.

(b) With respect to an order for the family allowance provided for in subdivision (a) of Section 6540:

(1) Before the inventory is filed, the order may be made or modified either (A) ex parte or (B) after notice of the hearing on the petition has been given for the period and in the manner provided in Section 1200.5.

(2) After the inventory is filed, the order may be made or modified only after notice of the hearing on the petition has been given for the period and in the manner provided in Section 1200.5.

(c) An order for the family allowance provided in subdivision (b) of Section 6540 may be made only after notice of the hearing on the petition has been given for the period and in the manner required by Section 1200.5 to all of the following:

(1) All devisees.

(2) In the case of intestacy, to all known heirs of the decedent.

(3) All persons (or their attorneys if they have appeared by attorney) who have requested special notice as provided in Section 1202 or who have given notice of appearance in person or by attorney.

6542. A family allowance commences on the date of the court's

order or such other time as may be provided in the court's order, whether before or after the date of the order, as the court in its discretion determines, but the allowance may not be made retroactive to a date earlier than the date of the decedent's death.

6543. (a) A family allowance shall terminate no later than the final settlement of the estate or, if the estate is insolvent, no later than one year after the granting of letters.

(b) Subject to subdivision (a), a family allowance shall continue until modified or terminated by the court or until such time as the court may provide in its order.

6544. The costs of proceedings under this chapter shall be paid by the estate as expenses of administration.

6545. Notwithstanding Chapter 2 (commencing with Section 916) of Title 13 of Part 2 of the Code of Civil Procedure, the perfecting of an appeal from an order made under this chapter does not stay proceedings under this chapter or the enforcement of the order appealed from if the person in whose favor the order is made gives an undertaking in double the amount of the payment or payments to be made to that person. The undertaking shall be conditioned that if the order appealed from is modified or reversed so that the payment or any part thereof to the person proves to have been unwarranted, the payment or part thereof shall, unless deducted from any preliminary or final distribution ordered in favor of the person, be repaid and refunded into the estate within 30 days after the court so orders following the modification or reversal, together with interest and costs.

CHAPTER 5. SPOUSE AND CHILDREN UNPROVIDED FOR IN WILL

Article 1. Omitted Spouse

6560. Except as provided in Section 6561, if a testator fails to provide by will for his or her surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive a share in the estate consisting of the following property in the estate:

(a) The one-half of the community property that belongs to the testator under Section 100.

(b) The one-half of the quasi-community property that belongs to the testator under Section 101.

(c) One-half of the separate property of the testator.

6561. The spouse does not receive a share of the estate under Section 6560 if any of the following is established:

(a) The testator's failure to provide for the spouse in the will was intentional and that intention appears from the will.

(b) The testator provided for the spouse by transfer outside the will and the intention that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the

amount of the transfer or by other evidence.

(c) The spouse made a valid agreement waiving the right to share in the testator's estate.

6562. In satisfying a share provided by this article, the devises made by the will abate as provided in Chapter 13 (commencing with Section 750) of Division 3.

Article 2. Omitted Children

6570. Except as provided in Section 6571, if a testator fails to provide in his or her will for a child of the testator born or adopted after the execution of the will, the omitted child shall receive a share in the estate equal in value to that which the child would have received if the testator had died intestate.

6571. A child does not receive a share of the estate under Section 6570 if any of the following is established:

(a) The testator's failure to provide for the child in the will was intentional and that intention appears from the will.

(b) When the will was executed, the testator had one or more children and devised substantially all the estate to the other parent of the omitted child.

(c) The testator provided for the child by transfer outside the will and the intention that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or by other evidence.

6572. If at the time of execution of the will the testator fails to provide in the will for a living child solely because the testator believes the child to be dead or is unaware of the birth of the child, the child shall receive a share in the estate equal in value to that which the child would have received if the testator had died intestate.

6573. In satisfying a share provided by this article, the devises made by the will abate as provided in Chapter 13 (commencing with Section 750) of Division 3.

PART 4. ESCHEAT OF DECEDENT'S PROPERTY

CHAPTER 1. GENERAL PROVISIONS

6800. (a) If a decedent, whether or not the decedent was domiciled in this state, leaves no one to take his or her estate or any portion thereof by testate succession, and no one other than a government or governmental subdivision or agency to take the estate or a portion thereof by intestate succession, under the laws of this state or of any other jurisdiction, the same escheats at the time of the decedent's death in accordance with this chapter.

(b) Property that escheats to the state under this chapter, whether held by the state or its officers, is subject to the same charges and trusts to which it would have been subject if it had

passed by succession and is also subject to the provisions of Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure relating to escheated estates.

6801. Real property in this state escheats to this state in accordance with Section 6800.

6802. All tangible personal property owned by the decedent, wherever located at the decedent's death, that was customarily kept in this state prior to the decedent's death, escheats to this state in accordance with Section 6800.

6803. (a) Subject to subdivision (b), all tangible personal property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under Division 3 (commencing with Section 300) escheats to this state in accordance with Section 6800.

(b) The property described in subdivision (a) does not escheat to this state but goes to another jurisdiction if the other jurisdiction claims the property and establishes all of the following:

(1) The other jurisdiction is entitled to the property under its law.

(2) The decedent customarily kept the property in that jurisdiction prior to the decedent's death.

(3) This state has the right to escheat and take tangible personal property being administered as part of a decedent's estate in that jurisdiction if the decedent customarily kept the property in this state prior to the decedent's death.

6804. All intangible property owned by the decedent escheats to this state in accordance with Section 6800 if the decedent was domiciled in this state at the time of the decedent's death.

6805. (a) Subject to subdivision (b), all intangible property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under Division 3 (commencing with Section 300) escheats to this state in accordance with Section 6800 whether or not the decedent was domiciled in this state at the time of the decedent's death.

(b) The property described in subdivision (a) does not escheat to this state but goes to another jurisdiction if the other jurisdiction claims the property and establishes all of the following:

(1) The other jurisdiction is entitled to the property under its laws.

(2) The decedent was domiciled in that jurisdiction at the time of the decedent's death.

(3) This state has the right to escheat and take intangible property being administered as part of a decedent's estate in that jurisdiction if the decedent was domiciled in this state at the time of the decedent's death.

6806. Notwithstanding any other provision of law, a benefit consisting of money or other property distributable from a trust established under a plan providing health and welfare, pension, vacation, severance, retirement benefit, death benefit, unemploy-

ment insurance or similar benefits does not pass to or escheat to the state under this chapter but goes to the trust or fund from which it is distributable, subject to the provisions of Section 1521 of the Code of Civil Procedure. However, if such plan has terminated and the trust or fund has been distributed to the beneficiaries thereof prior to distribution of such benefit from the estate, such benefit passes to the state and escheats to the state under this chapter.

SEC. 56. Section 1 of this act shall become operative only if AB 29 of the 1983–84 Regular Session is chaptered and amends Section 63 of the Civil Code, and in that event Section 63 of the Civil Code as amended by AB 29 of the 1983–84 Regular Session shall remain operative only until January 1, 1985, and on that date shall be further amended as provided in Section 1 of this act.

SEC. 57. Section 8 of this act shall become operative only if AB 1946 of the 1983–84 Regular Session is chaptered and amends Section 4352 of the Civil Code, and in that event Section 7 of this act shall not become operative and Section 4352 of the Civil Code as amended by AB 1946 of the 1983–84 Regular Session shall remain operative only until January 1, 1985, and on that date shall be further amended as provided in Section 8 of this act.

SEC. 58. This act shall become operative on January 1, 1985.

CHAPTER 843

An act to amend Sections 71000, 71001, and 71003 of the Education Code, relating to community colleges.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of all of the following:

(a) (1) Until such time as paragraph (2) becomes operative, 14 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

(2) Beginning with the date of the first appointment made pursuant to subdivision (c) and thereafter, 13 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

(b) One voting student who is either a full-time or part-time student in good standing enrolled in a community college at the time of the appointment. The student member shall be appointed by the Governor for a one-year term commencing on October 15. The first

voting student member appointed to the board shall occupy the seat on the board that is made available after the next full-term vacancy that occurs after January 1, 1978. Thereafter, such seat shall be designated as the voting student member seat and shall in the future be filled by community college students pursuant to this section and Section 71003.

(c) One voting tenured faculty member from a community college, who shall be appointed by the Governor for a two-year term. The Governor shall appoint the faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. The first voting tenured faculty member appointed to the board shall occupy the seat on the board that is made available by the next full-term vacancy of a four-year term that exists after January 1, 1984. Thereafter, that seat shall be designated as the voting tenured faculty member seat and shall in the future be filled by a tenured faculty member from a community college pursuant to this section and Section 71003.

The faculty member of the board appointed by the Governor pursuant to this subdivision shall not participate on any subcommittee of the board responsible for collective bargaining negotiations.

SEC. 2. Section 71001 of the Education Code is amended to read:

71001. Except for the student member and the faculty member appointed by the Governor, the terms of office of the members of the board shall be four years.

The board shall annually select two of its members to serve as president and vice president, respectively.

SEC. 3. Section 71003 of the Education Code is amended to read:

71003. Except for the student member and the faculty member appointed by the Governor, any vacancy on the board shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. A vacancy in the office of the student member or the office of the faculty member shall be filled by appointment by the Governor. The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

SEC. 4. It is the intent of the Legislature that the amendment made by this act to Section 71000 of the Education Code, which adds a faculty member of the California Community Colleges to the Board of Governors of the California Community Colleges shall not be construed as precluding input to the board by the Academic Senate of the California Community Colleges.

CHAPTER 844

An act to amend Sections 6011 and 6012 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 6011 of the Revenue and Taxation Code is amended to read:

6011. (a) "Sales price" means the total amount for which tangible personal property is sold or leased or rented, as the case may be, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold.

(2) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(b) The total amount for which the property is sold or leased or rented includes all of the following:

(1) Any services that are a part of the sale.

(2) Any amount for which credit is given to the purchaser by the seller.

(3) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(c) "Sales price" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) The amount charged for property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United

States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property, measured by a stated percentage of sales price or gross receipts, whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in such city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether such tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer; provided, that if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.

(8) The amount of any motor vehicle, mobilehome, or commerical coach fee or tax imposed by and paid the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

SEC. 2. Section 6012 of the Revenue and Taxation Code is amended to read:

6012. (a) "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with such rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax

imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The price received for labor or services used in installing or applying the property sold.

(4) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in such city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether such tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer; provided, that if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) The amount of any motor vehicle, mobilehome, or

commercial coach fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

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.

CHAPTER 845

An act to add Article 1.5 (commencing with Section 66451.10) and Article 1.7 (commencing with Section 66451.25) to Chapter 3 of Division 2 of Title 7 of, and to repeal Section 66424.2 of, the Government Code, relating to real property.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 66424.2 of the Government Code is repealed.

SEC. 2. Article 1.5 (commencing with Section 66451.10) is added to Chapter 3 of Division 2 of Title 7 of the Government Code, to read:

Article 1.5. Merger of Parcels

66451.10. Notwithstanding Section 66424, except as is otherwise provided for in this article, 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 which 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.

This article shall provide the sole and exclusive authority for the

merger of contiguous parcels. On and after January 1, 1984, parcels may be merged by local agencies only in accordance with the authority and procedures prescribed by this article.

66451.11. A local agency may, by ordinance which conforms to and implements the procedures prescribed by this article, provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if all of the following requirements are satisfied:

(a) At least one of the affected parcels is not developed with a structure, other than an accessory structure, for which a building permit was issued by the local agency, or which was built prior to the time such permits were required by the local agency.

(b) With respect to any affected parcel, one or more of the following conditions exists:

(1) Comprises less than 5,000 square feet in area at the time of the determination of merger.

(2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

(3) Does not meet current standards for sewage disposal and domestic water supply.

(4) Does not meet slope stability standards.

(5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

(6) Its development would create health or safety hazards.

(7) Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

The ordinance may establish the standards specified in paragraphs (3) to (7), inclusive, of subdivision (b), which shall be applicable to parcels to be merged.

For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

This section shall become operative July 1, 1984.

66451.12. A merger of parcels becomes effective when the local agency causes to be filed for record with the recorder of the county in which the real property is located, a notice of merger specifying the names of the record owners and particularly describing the real property.

This section shall become operative July 1, 1984.

66451.13. Prior to recording a notice of merger, the local agency shall cause to be mailed by certified mail to the then current record owner of the property a notice of intention to determine status, notifying the owner that the affected parcels may be merged pursuant to standards specified in the merger ordinance, and advising the owner of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice of intention to determine status shall be filed for record with the

recorder of the county in which the real property is located on the date that notice is mailed to the property owner.

This section shall become operative July 1, 1984.

66451.14. At any time within 30 days after recording of the notice of intention to determine status, the owner of the affected property may file with the local agency a request for a hearing on determination of status.

This section shall become operative July 1, 1984.

66451.15. Upon receiving a request for a hearing on determination of status, the local agency shall fix a time, date, and place for a hearing to be conducted by the legislative body or an advisory agency, and shall so notify the property owner by certified mail. The hearing shall be conducted not less than 30 days following the local agency's receipt of the property owner's request therefor, but may be postponed or continued with the mutual consent of the local agency and the property owner.

This section shall become operative July 1, 1984.

66451.16. At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in the merger ordinance.

At the conclusion of the hearing, the local agency shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination. If the merger ordinance so provides, a determination of nonmerger may be made whether or not the affected property meets the standards for merger specified in Section 66451.11. A determination of merger shall be recorded within 30 days after conclusion of the hearing, as provided for in Section 66451.12.

This section shall become operative July 1, 1984.

66451.17. If, within the 30-day period specified in Section 66451.14, the owner does not file a request for a hearing in accordance with Section 66451.16, the local agency may, at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded as provided for in Section 66451.12 no later than 90 days following the mailing of notice required by Section 66451.15.

This section shall become operative July 1, 1984.

66451.18. If, in accordance with Section 66451.16 or 66451.17, the local agency determines that the subject property shall not be merged, it shall cause to be recorded in the manner specified in Section 66451.12 a release of the notice of intention to determine status, recorded pursuant to Section 66451.13, and shall mail a clearance letter to the then current owner of record.

This section shall become operative July 1, 1984.

66451.19. (a) A city or county having a merger ordinance in existence on January 1, 1984, shall no later than January 1, 1986, file a notice of merger for any parcel merged pursuant to such ordinance prior to January 1, 1984. After January 1, 1986, no parcel merged

pursuant to such ordinance prior to January 1, 1984, shall be considered merged pursuant to such ordinance unless such notice of merger is recorded.

(b) A city or county having a merger ordinance in existence on January 1, 1984, may, until July 1, 1984, continue to effect the merger of parcels pursuant to that ordinance, unless the parcels would be eligible for unmerger pursuant to the criteria specified in Section 66451.25. The local agency shall record a notice of merger for any parcels merged pursuant to that ordinance.

(c) At least 30 days prior to recording a notice of merger pursuant to subdivision (a) or (b), the local agency shall advise the owner of the affected parcels, in writing, of the intention to record the notice and specify 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.

66451.20. Prior to amending a merger ordinance which was in existence on January 1, 1984, in order to bring it into compliance with Section 66451.11, the legislative body of the local agency shall adopt a resolution of intention and the clerk of the legislative body shall cause notice of the adoption of the resolution to be published in the manner prescribed by Section 6061. The publication shall have been completed not less than 30 days prior to adoption of the amended ordinance.

66451.21. Prior to the adoption of a merger ordinance in conformance with Section 66451.11, by a city or county not having a merger ordinance on January 1, 1984, the legislative body shall adopt a resolution of intention to adopt a merger ordinance and fix a time and place for a public hearing on the proposed ordinance, which shall be conducted not less than 30 nor more than 60 days after adoption of the resolution. The clerk of the legislative body shall cause a notice of the hearing to be published in the manner prescribed by Section 6061. Publication shall have been completed at least seven days prior to the date of the hearing. The notice shall:

(a) Contain the text of the resolution.

(b) State the time and place of the hearing.

(c) State that at the hearing all interested persons will be heard.

SEC. 3. Article 1.7 (commencing with Section 66451.25) is added to Chapter 3 of Division 2 of Title 7 of the Government Code, to read:

Article 1.7. Unmerger of Parcels

66451.25. Any city in which, prior to January 1, 1984, parcels of real property have merged by reason of their being contiguous and having come under common ownership shall notify the tax collector for the county in which the city is situated that there are parcels within the city which have merged.

66451.26. The tax collector of a county who receives a notice pursuant to Section 66451.25, and the tax collector of any other county in which, prior to January 1, 1984, parcels in the

unincorporated territory have merged by reason of their being contiguous and having come under the same ownership, shall enclose with the county tax bill for property on the secured roll for taxes due November 1, 1984, a notice to the taxpayer that contiguous commonly owned parcels in the city or in the unincorporated territory of the county may have merged, and naming those cities in which merger has occurred. The city shall reimburse the county for the cost of providing notice of merger of parcels within the city.

The notice may be sent to the taxpayer separately by first-class mail if it is impractical to include the notice with the tax bill. Mailed notice shall be sent on the same date that tax bills are mailed.

66451.27. (a) The board of supervisors of any county may, by February 1, 1984, elect to utilize individual mailed notices to property owners as an alternative to the notification procedures prescribed by Sections 66451.25 and 66451.26. Upon electing the alternative procedure, the county shall notify all cities within the county of its election.

(b) Not more than 90 days following an election made pursuant to subdivision (a), the county, and each city within the county, shall cause to be mailed by first-class mail to each record owner of real property within their respective jurisdictions, a notice that contiguous commonly owned parcels may have merged. The requirements of this subdivision and of Sections 66451.25 and 66451.26 shall be applicable only to a city or a county in which, prior to January 1, 1984, parcels have merged by reason of their being contiguous and having come under the same ownership.

66451.28. At any time within 90 days after mailing the notice required by Section 66451.26 or 66451.27, if a notice of merger has not been recorded against the affected property prior to January 1, 1984, the owner may file with the local agency a request for a hearing on determination of status. The local agency may require the property owner to submit information deemed necessary to determine the status of the parcels. Upon receipt of such information, the request shall be deemed complete and filed.

66451.29. A request for a determination of status shall be processed as a development project pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code.

66451.30. Any parcel which has merged, and for which a notice of merger has not been recorded on or before January 1, 1984, shall be unmerged if on that date:

(a) The parcel meets each of the following criteria:

(1) Comprises at least 5,000 square feet in area.

(2) Was created in compliance with applicable laws and ordinances in effect at the time of its creation.

(3) Meets current standards for sewage disposal and domestic water supply.

(4) Meets slope density standards.

(5) Has legal access which is adequate for vehicular and safety

equipment access and maneuverability.

(6) Its unmerger and development would create no health or safety hazards.

(7) The unmerged parcel would be consistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

(b) And, with respect to such parcel, none of the following conditions exist:

(1) One or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

(2) One or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51100, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.

(3) One or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.

(4) One or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(5) Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (A) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (B) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based. For purposes of this section, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.

Each city or county, as applicable, may establish the standards specified in paragraphs (3) to (7), inclusive, of subdivision (a), which shall be applicable to parcels to be unmerged pursuant to this section.

66451.31. Upon application made by the owner and payment of any fees authorized by Section 66451.33, the local agency shall make

a determination that the affected parcels have merged or, if meeting the criteria of Section 66451.25, are to be unmerged.

66451.32. (a) Upon a determination that the parcels have not merged, the local agency shall so notify the owner.

(b) Upon a determination that the parcels have merged and that the parcels meet the standards for unmerger specified in Section 66451.30, the local agency shall issue to the owner and record with the county recorder a notice of the status of the parcels which shall identify each parcel and declare that the parcels are unmerged pursuant to this article.

(c) Upon a determination that the parcels have merged and do not meet the criteria specified in Section 66451.30, the local agency shall issue to the owner and record with the county recorder, a notice of merger as provided in Section 66451.12.

66451.33. A city or county may impose a fee not to exceed those permitted by Chapter 13 (commencing with Section 54990) of Part 1, payable by the owner, for those costs incurred with respect to a parcel for which application for unmerger is made, which are necessitated by compliance with this article.

SEC. 4. The repeal of subdivision (b) of Section 66424.2, by Section 1 of this act, shall not be construed to affect the status of any parcel deemed unmerged pursuant to that subdivision. Any parcel unmerged pursuant to that subdivision, and which has not subsequently been merged, shall for the purposes of this act be considered a separate parcel.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 846

An act to add Section 17960.1 to the Health and Safety Code, relating to building permits.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 17960.1 is added to the Health and Safety Code, to read:

17960.1. (a) The governing body of a local agency may authorize its enforcement agency to contract with or employ a private entity or persons on a temporary basis to perform the plan-checking function.

(b) A local agency need not enter into a contract or employ persons if it determines that no entities or persons are available or qualified to perform the plan-checking services.

(c) Entities or persons employed by a local agency may, pursuant to agreement with the local agency, perform all functions necessary to check the plans and specifications to comply with other requirements imposed pursuant to this part or by local ordinances adopted pursuant to this part, except those functions reserved by this part or local ordinance to the legislative body. A local agency may charge the applicant fees in an amount necessary to defray costs directly attributable to employing or contracting with entities or persons performing services pursuant to this section which the applicant requested.

(d) When there is an excessive delay in checking plans and specifications submitted as a part of an application for a residential building permit, the local agency shall, upon request of the applicant, contract with or employ a private entity or persons on a temporary basis to perform the plan-checking function subject to subdivisions (b) and (c).

(e) For purposes of this section:

(1) "Excessive delay" means the enforcement agency of a local agency has either:

(A) Taken more than 50 days to complete the structural building safety plan check of the applicant's set of plans and specifications which are suitable for checking or,

(B) Taken, including the days actually taken in (A), more than 60 days to complete the checking of the resubmitted corrected plans and specifications suitable for checking after the enforcement agency had returned the plans and specifications to the applicant for correction.

(2) "Local agency" means a city, county, or city and county.

(3) "Enforcement agency" means the building department or building division of a local agency.

(4) "Residential building" means a one-to-four family detached structure not exceeding three stories in height.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 847

An act to add Title 2.8 (commencing with Section 1812.300) to Part 4 of Division 3 of the Civil Code, relating to contracts.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Title 2.8 (commencing with Section 1812.300) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 2.8. MEMBERSHIP CAMPING CONTRACTS

1812.300. For the purposes of this title:

(a) "Membership camping operator" means any enterprise, other than one that is tax exempt under Section 501 (c) (3) of the Internal Revenue Code of 1954, as amended, that has as one of its purposes camping or outdoor recreation including use of camping sites, that solicits membership paid for by a fee or periodic payments, such as annual dues, and the contractual members are the primary intended users. "Membership camping operator" does not include camping or recreational trailer parks, as defined in Section 18215 of the Health and Safety Code, which are open to the general public and which contain camping sites rented for a per use fee, or a "mobilehome park," as defined in either Section 798.4 of the Civil Code or Section 18214 of the Health and Safety Code.

As used in this title, "seller" means membership camping operator.

(b) "Membership camping contract" means an agreement offered or sold within the State of California evidencing a purchaser's right or license to use for more than 14 days in a year, the camping or outdoor recreation facilities of a membership camping operator and includes a membership which provides for this use.

(c) "Camping site" means a space designed and promoted for the purpose of locating a trailer, tent, tent trailer, pickup camper, or other similar device used for camping.

(d) "Offer" means any solicitation reasonably designed to result in entering into a membership camping contract.

(e) "Person" means any individual, corporation, partnership, trust, association, or other organization other than a government or a subdivision thereof.

(f) "Purchaser" means a person who enters into a membership camping contract and thereby obtains the right to use the camping or outdoor facilities of a membership camping operator.

(g) "Sale" or "sell" means entering into, or other disposition, of a membership camping contract for value. The term "value" does not include a reasonable fee to offset the administrative costs of transfer of a membership camping contract.

1812.301. The membership camping contracts covered by this title shall be subject to the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

1812.302. A membership camping operator shall provide to a purchaser the following written disclosures in any format which clearly communicates the following reasonably current information before the purchaser signs a membership camping contract, or gives any money or thing of value for the purchase of a membership camping contract. The written disclosures shall be included in or attached to the contract before the time the contract is signed. The following information shall be updated once a year.

(a) The name and address of the membership camping operator and any material affiliate membership camping operator.

(b) A brief description of the membership camping operator's experience in the membership camping business, including the number of years the operator has been in the membership camping business; a brief description of the past five years' business experience of the chairman, the president and chief executive officer, and if other than the foregoing, the person in charge of marketing of the membership camping operator, or persons in comparable positions in noncorporate operators, including the number of other membership camping operators with which the executive has been associated and the length of time with each.

(c) A brief description of the nature of the purchaser's right or license to use the membership camping operator's property or facilities.

(d) The location of each of the membership camping operator's parks and a brief description for each park of the significant facilities then available for use by purchasers and those which are represented to purchasers as being planned, together with a brief description of any significant facilities that are or will be available to nonpurchasers or nonmembers.

"Significant facilities" shall include, but are not limited to, each of the following: the number of campsites, in each park; the number of campsites in each park with full or partial hookups; swimming pools; tennis courts; recreation buildings; restrooms and showers; laundry rooms; trading posts; or grocery stores. "Partial hookups" mean those hookups with at least one of the following connections: electricity, water, or sewer connections.

Following such description there shall appear in 10-point bold type the following disclosure:

NOTICE: PURCHASE A MEMBERSHIP CAMPING CONTRACT ONLY ON THE BASIS OF EXISTING FACILITIES. CONSTRUCTION OF PLANNED FACILITIES IS SOMETIMES DEFERRED OR REVISED FOR A VARIETY OF REASONS. SHOULD THE SALESPERSON DESCRIBE A SIGNIFICANT FACILITY WHICH IS NEITHER LISTED AS EXISTING NOR PLANNED, TELEPHONE COLLECT OR TOLL FREE DURING WEEKDAY BUSINESS HOURS TO [insert headquarter's telephone

number] TO VERIFY THE OPERATOR'S PLAN FOR SUCH A FACILITY.

(e) A brief description of the membership camping operator's ownership of, or other right to use, the camping properties represented to be available for use by purchasers, together with the duration of any lease, license, franchise, or reciprocal agreement entitling the membership camping operator to use the property, and any material provisions of any agreements which restrict a purchaser's use of the property.

(f) A summary or copy of the rules, restrictions, or covenants regulating the purchaser's use of the membership camping operator's properties, including a statement of whether and how the rules, restrictions, or covenants may be changed.

(g) A brief description of all payments of a purchaser under a membership camping contract, including initial fees and any further fees, charges, or assessments, together with any provisions for changing the payments.

(h) A description of any restraints on the transfer of the membership camping contract.

(i) A brief description of the policies relating to the availability of camping sites and whether reservations are required.

(j) A brief description of any grounds for forfeiture of a purchaser's membership camping contract.

(k) A copy of the membership camping contract form.

1812.303. (a) A membership camping contract shall be written in the same language as that principally used in any oral sales presentation (e.g., Spanish). A membership camping contract shall be dated, signed by the purchaser, and contain, in immediate proximity to the space reserved for the signature of the purchaser, a conspicuous statement in a size equal to at least 10-point bold type, as follows: "You, the purchaser, may cancel this contract at any time prior to midnight of the third business day after the date of the transaction. See an explanation of this right as set forth in this contract or on the attached notice of cancellation form." In the alternative the notice of cancellation as set forth in subdivision (b) may be placed in immediate proximity to the signature line of the contract in lieu of the foregoing statement.

(b) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation", which shall be attached to the contract and easily detachable. In the alternative, the seller may include all of the cancellation information on the contract and provide the consumer with a carbon copy which may be retained after cancellation. Both shall contain, in type of at least 10-point, the following statement written in the same language as used in the contract:

"Notice of Cancellation"

"You may cancel this contract, without any penalty or obligation, within three business days from the date the contract is executed.

"To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice or a copy of this contract if it contains the cancellation instructions, or any other written notice, or send a telegram to_____ at
(Name of seller)

_____
(Address of seller's place of business)

not later than midnight of _____ .
(Date)

I hereby cancel this transaction _____ .
(Date)

_____
(Purchaser's signature)

"With the notice of cancellation, or separately if a telegram is sent, you must return the original membership camping contract, membership card and all other evidence of membership to the seller. You should retain for your records one copy of the cancellation notice, or a carbon of the contract when it provides the cancellation information, or other writing showing intent to cancel. Mailing by ordinary mail is adequate but certified mail return receipt requested is recommended."

(c) On the date of purchase the membership camping operator shall provide the purchaser with a copy of the contract and duplicate of the notice of cancellation. The membership camping operator shall inform the purchaser orally of the right to cancel at the time the contract is executed.

(d) Within 20 days after the membership camping operator receives a notice of cancellation, the membership camping contract, the membership card and all other evidence of purchase or membership, the membership camping operator shall refund to the purchaser any sums paid as a deposit, downpayment or other payment therefor.

(e) Until the membership camping operator has complied with this section, the purchaser shall have the right to cancel the contract.

(f) "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

1812.304. (a) If the purchaser has not inspected at least one property or facility at which the membership camping operator's sites are located or planned, the notice shall contain the following additional language:

"If you sign this contract without having first inspected a property

at which camping sites are located or planned, you may also cancel this contract at any time prior to midnight of the 10th business day after date of purchase by mailing or delivering the signed and dated attached written notice of cancellation or a copy of the contract when that contains the cancellation instructions together with the original camping club contract, membership card and any other evidence of membership.

(b) The seller shall return any payment made by the purchaser under the contract or offer to purchase, and any negotiable instrument executed by the purchaser, within 10 days of the cancellation of the contract by the purchaser.

1812.305. The following transactions are exempt from the provisions of this title.

(a) An offer, sale or transfer by any one person of not more than one membership camping contract for any given membership camping operator in any 12-month period.

(b) An offer or sale by a government or governmental agency.

(c) A bona fide pledge of a membership camping contract.

1812.306. (a) A purchaser's remedy for errors in or omissions from the membership camping contract of any of the disclosures or requirements of Sections 1812.302 to 1812.304, inclusive, shall be limited to a right of recission and refund. Reasonable attorney's fees shall be awarded to the prevailing party in any action under this title. This limitation does not apply to errors or omissions from the contract, or disclosures or other requirements of this title, which are a part of a scheme to willfully misstate or omit the information required, or other requirements imposed by this title.

(b) Any failure (except a willful or material failure) to comply with any provision of Sections 1812.302 to 1812.304, inclusive, may be corrected within 30 days after receipt of written notice to the membership camping operator from the purchaser, and, if so corrected, there shall be no right of recission. The membership camping operator or the holder shall not be subject to any penalty under this title. However, there can be no correction which increases any monthly payment, the number of payments, or the total amount due, unless concurred to, in writing, by the purchaser. "Holder" includes the seller who acquires the contract, or if the contract is purchased, a financing agency or other assignee who purchases the contract.

1812.307. (a) A membership camping contract broker is a person who resells the membership camping contract to a new purchaser on behalf of the prior purchaser. This term does not include the membership camping operator or its agents.

(b) The broker shall not receive any fee, including a listing fee, for selling the contract until a sale is completed. A fee may be paid into an escrow account at the time a purchaser is obtained. Escrows are recommended but not required.

(c) The broker shall inform the new purchaser in writing of the following:

(1) The risks of purchasing a membership camping contract without visiting at least one of the membership camping operator's parks.

(2) That the membership camping operator may have a valid reason for not transferring the contract to the new purchaser such as payments in default on contract or annual dues, or that the new purchaser does not meet the same credit standards applied to other new purchasers.

(3) That there may have been changes in the rules or regulations concerning the rights and obligations of the membership camping operator or its members including changes with respect to annual dues, fees, assessments, or that some camping properties or facilities may have been withdrawn.

(4) Any material changes or risks to the purchaser known to the broker.

(d) (1) Every broker shall provide in writing the following notice of cancellation to the new purchaser:

"You may cancel your contract of purchase, without any penalty or obligation, within 10 business days from the above date of purchase by mailing notice of cancellation together with the membership camping contract, if any, any contract for transfer, membership card or other evidence of membership to

_____ ,

(Name and address of broker)

the membership camping operator

_____

(Name and address of membership camping operator)

and the escrow company

_____ ,

(Name and address of escrow company)

if any, not later than midnight of _____ .

(Date)

I hereby cancel this transaction _____

(Purchaser's signature)

_____ .

(Date)

Notice by ordinary mail is adequate but certified mail return receipt requested is recommended."

(2) Any escrow company which receives a notice of cancellation from a purchaser shall, within 72 hours of receipt of the notice, notify the membership camping operator of the cancellation and shall refund any sums paid by the purchaser of the contract within 10 days of receipt of the notice of the cancellation and other documents.

1812.308. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 848

An act to amend Sections 94311 and 94312 of the Education Code, relating to private postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 94311 of the Education Code is amended to read:

94311. No postsecondary educational institution may offer courses of education leading to educational, professional, technological, or vocational objectives unless the institution has been approved or authorized by the superintendent as meeting at least one of the following requirements:

(a) A hospital licensed under the provisions of Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code and issues diplomas only in connection with the operation of a hospital.

(b) An institution which is accredited, approved, or licensed by a state board or agency as a school, or any person or school certified for flight instruction by the Federal Aviation Administration, or its successor agency, and which issues or confers diplomas in the profession, vocation or occupation controlled by the board or agency accrediting, approving, or licensing it. However, this subdivision shall not be construed as authorizing the issuing of a diploma which is not customarily granted for the training given and which is limited to the profession, vocation or occupation controlled by the accrediting, approving, or licensing board or agency. Authorization to operate pursuant to this subdivision shall only be denied if the institution does not possess a valid accreditation, approval, or licensure by a California state agency, or if the person or school providing flight instruction does not possess a valid certification issued by the Federal Aviation Administration, or its successor agency. Institutions seeking approval or authorization pursuant to this subdivision shall be exempt from providing the application materials specified in subdivision (a) of Section 94330 and from the requirements of subdivision (e) of Section 94330. Institutions or persons approved by the Federal Aviation Administration, or its successor agency, which offer flight education and instruction shall file annually with the Superintendent of Public Instruction a copy of the individual's or institution's certificate as provided by the Federal Aviation Administration.

(c) An institution which at the time of the issuance of a diploma, has accreditation of the institution, program or specific course of study upon which the diploma is based by a national or applicable

regional accrediting agency recognized by the United States Department of Education, and the administrative head of the institution has filed with the superintendent an annual affidavit verifying that the institution, program, or each course of study for which a diploma is issued is so accredited.

(d) An institution which has been approved by the superintendent as meeting the following minimum criteria:

(1) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the object of that particular course.

(3) Every instructor and administrator holds an applicable and valid Certificate of Authorization for Service issued by the superintendent in the specified competence area in which the individual will serve. Certificates may be issued to administrators upon the superintendent's determination that the applicant is of good moral character and to instructors upon the superintendent's determination that the applicant is of good moral character and possesses adequate academic, experiential, and professional qualifications.

(4) The institution maintains written records of the student's previous education and training with recognition where applicable.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is given to students upon enrollment.

(6) The institution maintains adequate records to show attendance, progress, and grades.

(7) The institution complies with all local city, county, municipal, state, and federal regulations such as fire, building, and sanitation codes. The superintendent may require evidence of compliance.

(8) The institution does not exceed enrollment which the facilities and equipment of the institution can reasonably handle.

(9) The institution's administrator, director, owner, and instructors are of good reputation and character.

(10) Application for such approval shall be made in writing on proper application forms. Pending final approval, the superintendent may issue a provisional approval upon submission of the complete application.

Within 30 days following receipt of application, and prior to the issuance of either provisional or final approval, a representative of the superintendent shall personally inspect the school and verify the application. If the visitation does not occur within 30 days following receipt of the application, the institution shall automatically receive a provisional approval. Within 30 days following visitation, either final approval, provisional approval, or denial of approval shall be

given to each application. If the superintendent does not act within 30 days following visitation, the application from the institution will automatically receive approval. If all information is in order, the superintendent may authorize provisional approval. A provisional approval shall not exceed a period of one year, subject to prior termination or conversion to annual approval. A provisional approval may not be extended.

SEC. 2. Section 94312 of the Education Code is amended to read:

94312. All institutions authorized, or approved, under this chapter shall be maintained and operated, or in the case of a new institution, shall demonstrate that it will be maintained and operated, in compliance with all of the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That the institution and its agents do not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(c) That the institution designates an agent for service of process within this state.

(d) That the institution has and maintains a fair and equitable policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall be in compliance with the minimum standard of refunds as adopted by the superintendent. The superintendent shall take into consideration the length and character of the educational program in determining standards for refunds.

(e) That any written contract or agreement signed by a prospective student away from the institution premises will not become operative until the student makes an initial visit to the institution. The provision applies only in those situations when the student begins payment on tuition charges (beyond the registration fee) prior to arriving at the campus. The student is obligated to visit the campus at least six days prior to the start of classes. The school officials are obligated to provide the student with a thorough tour of the campus facilities and to place a written statement, signed by the student, in the student's file to verify that the visitation and campus tour were provided. Following the visitation to the campus, the student will have a three-day "cooling off" period to void the contract with no money to be retained by the school as provided in subdivision (d). If the student does not visit the campus after signing the contract, the "cooling off" period will automatically begin six days prior to the start of classes. The student may waive the right to visit the campus at any time after signing the contract. This provision does not apply to correspondence schools or other mail study institutions. The superintendent shall take into consideration the character of the educational program in determining if other types of institutions should also be excluded from this provision.

(f) That any written contract or agreement for a course of study with an institution shall include on the first page of such agreement or contract, in 12-point boldface print or larger, the following statement:

"Any questions or problems concerning this institution which have not been satisfactorily answered or resolved by the institution should be directed to the Superintendent of Public Instruction, State Department of Education, Sacramento, California 95814."

In addition, such written contracts or agreements shall specify, in underlined capital letters on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution in numbers or letters.

(g) That neither the institution nor its agents engage in sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(h) That the institution makes available to students and other interested persons a catalog or brochure containing information describing the courses offered, program objectives, length of program, faculty and their qualifications, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, the total cost of tuition over the entire period, and (for vocational training programs for which specific placement claims are made) placement data, as well as such other material facts concerning the institution and the program or course of instruction, as are reasonably likely to affect the decision of the student to enroll therein, as specified by the superintendent and defined in the rules and regulations; and that such information is made available to prospective students prior to enrollment.

(i) That upon satisfactory completion of training, the student is given an appropriate degree or diploma by the institution, indicating that the course or courses of instruction or study have been satisfactorily completed by the student.

(j) That adequate and accurate records are maintained by the institution, in accordance with regulations adopted by the superintendent, and that satisfactory standards are enforced relating to attendance, progress, and performance.

(k) That the institution maintains current records for a period of not less than five years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the superintendent or the Attorney General of California showing all of the following:

(1) The names and addresses, both local and home, including city and street, of each of its students.

(2) The courses of study offered by the institution.

(3) The names and addresses, including city and street, of its

faculty, together with a record of the educational qualifications of each.

(4) The degrees or diplomas and honorary degrees and diplomas granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

(*l*) Accreditation by a national or applicable regional accrediting agency recognized by the United States Department of Education shall be accepted by the superintendent as evidence of compliance with the minimum standards established by the accrediting or licensing agency, and therefore as evidence of compliance with the minimum standards specified in the provisions of this section. If there is substantial evidence of violation of the standards established by the responsible agency, however, the superintendent may require such further evidence and make such further investigation as may be necessary.

(m) That the institution provides instruction as part of its educational program. Instruction shall include any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(n) Institutions licensed solely under the provisions of subdivision (b) of Section 94311, with the exception of those offering flight instruction, shall comply with subdivisions (b), (e), (g), (h), (i), and (j). The responsibility for monitoring and enforcing institutional compliance with these minimum standards shall be with the state board or agency responsible for licensing the school.

(o) Institutions certified to offer flight instruction by the Federal Aviation Administration, or its successor agency, shall comply with all of the requirements of this section, but shall not be required to file any materials with the Superintendent of Public Instruction which are not required by the Federal Aviation Administration, or its successor agency, except those minimally necessary to administer the Student Tuition Recovery Fund, pursuant to Section 94342, as determined by the Superintendent of Public Instruction. The responsibility for monitoring and enforcing institutional compliance for these institutions shall be with the Superintendent of Public Instruction.

Individual flight instructors not requiring any advance payments, who do not negotiate a formal contract of indebtedness, and who do not have an established place of business other than their residences shall be exempt from the requirements of this section.

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

Chapter 1099 of the Statutes of 1981 (SB 272), among other things, exempted institutions seeking approval or authorization pursuant to subdivision (b) of Section 94311 of the Education Code from

providing the application materials specified in subdivision (a) of Section 94330 of the Education Code, and from the requirements of subdivisions (e) and (g) of Section 94330 of the Education Code. However, these exemptions were removed by Chapter 1299 of the Statutes of 1982 (AB 2356).

In order to alleviate unduly burdensome requirements on institutions seeking approval pursuant to subdivision (b) of Section 94311 of the Education Code, it is necessary that this act take effect immediately.

CHAPTER 849

An act to amend Section 373 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 373 of the Streets and Highways Code is amended to read:

373. Route 73 is from Route 5 near San Juan Capistrano to Route 405 via the San Joaquin Hills.

MacArthur Boulevard from Route 1 near Corona del Mar to San Diego Creek in Irvine shall cease to be a state highway when the Route 73 freeway as described above is completed.

CHAPTER 850

An act to add Section 243.6 to the Penal Code, relating to assault and battery.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 243.6 is added to the Penal Code, to read:

243.6. When an assault or battery is committed against the person of a process server and the person committing the offense knows or reasonably should know that the victim is a process server engaged in the performance of his or her duties, the offense shall be punishable by fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both.

SEC. 2. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 851

An act to amend Section 4 of Chapter 343 of the Statutes of 1982, relating to community colleges.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 4 of Chapter 343 of the Statutes of 1982 is amended to read:

Sec. 4. (a) From funds appropriated to Section B of the State School Fund for the 1981–82 fiscal year, a sum not to exceed seven hundred fifty thousand dollars ($750,000) is hereby appropriated for allocation to the Compton Community College District for the 1982–83 fiscal year as an emergency apportionment pursuant to Article 2 (commencing with Section 84309) of Chapter 3 of Part 50 of the Education Code.

(b) Notwithstanding the three-year repayment period of Section 84313 of the Education Code, the Compton Community College District shall commence repayment of the emergency apportionment pursuant to subdivision (a) in the 1984–85 fiscal year. For each of the 1984–85, 1985–86, and 1986–87 fiscal years, the Controller shall deduct from apportionments to the Compton Community College District an amount not less than one-third of the amount actually allocated to the district pursuant to subdivision (a), together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district.

(c) The effect of any deficit in the state general apportionments to community college districts in the 1981–82 fiscal year created by this reappropriation shall be excluded from the computation of community college district base revenues in the 1982–83 fiscal year.

CHAPTER 852

An act to amend Sections 113, 1220, 1221, and 1226 of the Financial Code, relating to banks.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 113 of the Financial Code is amended to read:

113. "Person" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

SEC. 2. Section 1220 of the Financial Code is amended to read:

1220. For the purpose of this article:

(a) "Obligations" means the total sums for the payment of which a person is obligated, primarily or secondarily, to a commercial bank.

(b) Obligations of a person include obligations of others to a commercial bank arising out of loans made by the bank for the benefit of such person.

(c) Obligations of an individual include the obligations of a partnership or association for which obligations the individual is liable.

(d) Obligations of a partnership include the obligations of its members who are liable for its obligations.

(e) Obligations of a corporation include the obligations of all subsidiaries in which it owns or controls a majority interest, except to the extent and under such restrictions as the superintendent may prescribe in specific instances upon special application made by any bank prior to the creation of such obligations.

(f) Obligations of a sovereign government or agency include the obligations of instrumentalities or political subdivisions of the government or agency, except to the extent and under such restrictions as the superintendent may prescribe in specific instances upon special application made by any bank prior to the creation of such obligations.

SEC. 3. Section 1221 of the Financial Code is amended to read:

1221. The obligations, as defined in Section 1220, excepting the obligations described in Section 1226 and the obligations described in Section 1224, of any one person owing to a commercial bank at any one time shall not exceed the following limitations:

(a) Obligations which are unsecured shall not exceed 15 percent of the sum of the shareholders' equity, allowance for loan losses, capital notes, and debentures of the bank.

(b) Obligations, secured and unsecured, in all shall not exceed 25 percent of the sum of the shareholders' equity, allowance for loan

losses, capital notes, and debentures of the bank.

Obligations arising out of the discount of commercial or business paper actually owned by the person negotiating the same and endorsed by such person without limitation, together with the secured and unsecured obligations, if any, of such person, shall not exceed 40 percent of the sum of the shareholders' equity, allowance for loan losses, capital notes, and debentures of the bank.

No commercial bank shall be required, solely by reason of the amendments of this article, to dispose of or reduce any loan which complied with the applicable limitations of this division at the time such loan was made, nor shall any such bank be prevented solely by reason of the provisions of this article from renewing any such loan from time to time.

SEC. 4. 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 (1) any Federal Reserve bank, (2) the United States, (3) any department, bureau, board, commission, agency, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States or (4) any small business development corporation, urban development corporation, or rural development corporation incorporated pursuant to the California Job Creation Law (Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code).

(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.

(h) Obligations described in Section 1336.

CHAPTER 853

An act to amend, repeal, and add Section 4701 of the Civil Code, relating to child support.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. 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 six 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 the 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) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the 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 that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These 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, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released 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.

(k) This section shall remain in effect only until January 1, 1987, and as of such date is repealed.

SEC. 2. Section 4701 is added to the Civil Code, 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) The provisions of this section apply to the money and benefits

described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the 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 that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These 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, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released 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.

(k) This section shall become operative on January 1, 1987.

CHAPTER 854

An act to amend Section 44438 of, and to add Section 44421.5 to, the Education Code, relating to certificated employees.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 44421.5 is added to the Education Code, to read:

44421.5. Notwithstanding Section 44421, the Commission on Teacher Credentialing shall revoke the credential of any person who knowingly and willfully reports false fiscal expenditure data relative to the conduct of any educational program.

SEC. 2. Section 44438 of the Education Code is amended to read:

44438. (a) "Private admonition," as used in this article and in Article 3 (commencing with Section 44240) of Chapter 2, is a

warning, in writing, to the applicant or credential holder that states in ordinary and concise language the act or omission of the applicant or credential holder and further states that repetition of such act or omission may result in denial, suspension, or revocation of the credential.

(b) The private admonition shall be included in the applicant's or credential holder's file, maintained by the commission.

(c) The applicant's or credential holder's employer at the time of admonition shall receive a copy of the admonition and shall not make such copy accessible or disclose the contents thereof, unless the applicant or credential holder consents, in writing, thereto.

(d) For purposes of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the private admonition is deemed a personnel record within the meaning of subdivision (c) of Section 6254 of the Government Code.

(e) The commission and the applicant's or credential holder's employer shall expunge all records pertaining to the private admonition maintained in his or her files pursuant to subdivisons (b) and (c) at the expiration of three years, so long as there is no recurrence of such an offense.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 855

An act to amend Section 5000 of the Business and Professions Code, relating to accountants.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs a State Board of Accountancy, which consists of 12 members, six of whom shall be certified public accountants, two of whom shall be public

accountants, and four of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint two of the public members and the eight accountant members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. The Senate Rules Committee shall appoint the public member provided at the 1983 portion of the 1983–84 Regular Session of the Legislature and the Speaker of the Assembly shall appoint a public member to fill the first public member vacancy which occurs on or after January 1, 1983.

CHAPTER 856

An act to add Article 1.5 (commencing with Section 225) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to state government.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Article 1.5 (commencing with Section 225) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 1.5. Unification of Contracts

225. Notwithstanding any other provisions of state law or any division in the allocation of funds in the Budget Act, the state department may, within its authority to contract with a provider for the provision of health services, enter into a single contractual instrument encompassing services in any number of health services subject areas, limited to the following: primary care, maternal and child health, woman, infant, and child care, family planning, rural health services, migrant and seasonal farmworker care, child health and disability prevention, genetic disease, hypertension, grants-in-aid, American Indian health, adult health care, and dental care, except that federally funded programs requiring separate accounting and reporting shall preserve the separate accounting and reporting for contracts executed pursuant to this article.

226. To the extent that a reduction in administrative costs would thereby result, any agency or agencies authorized to conduct audits under any state health services program that is the subject of a contract with a provider shall conform the scope of any such audit to include other health services programs encompassed by the contract as to which the agency or agencies have authority to

conduct audits.

227. Notwithstanding any other provision of state law, any contract under this article shall be subject to review and approval by the Department of General Services.

228. No provision of this article shall be construed to prohibit the state department from providing under any contract entered into under this article for reimbursement on the basis of negotiated rates, capitation, fee-for-service, or any other method designed to reduce administrative costs.

229. In order to implement the provisions of this article, the department may establish a single account wherein all funds for eligible programs may be deposited for purposes of contracting in a single form.

CHAPTER 857

An act to amend Sections 68081, 68101, 75026, and 75171 of, and to add Sections 61411.1, 61415, 61416, 61417, 61418, and 61419 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 61411.1 is added to the Food and Agricultural Code, to read:

61411.1. (a) The purchase of any manufacturing milk from any manufacturing milk producer without a written contract that has been executed and complies with the requirements of Section 61411 is an unlawful trade practice. The contract shall include the price to be paid for all manufacturing milk received. The contract may contain any other provisions that are not in conflict with this chapter. A signed copy of the contract shall be filed by the handler with the director within five days from the date of its execution.

(b) This section does not apply to the purchase of milk which does not meet market milk standards under Chapter 2 (commencing with Section 35751) of Part 2 of Division 15 when the milk has been produced on a dairy farm that held a valid market milk permit during the 30-day period preceding the purchase.

SEC. 2. Section 61415 is added to the Food and Agricultural Code, to read:

61415. The failure of any handler to pay for manufacturing milk delivered to the handler at the time and in the manner specified in the contract with the producer is an unlawful trade practice.

SEC. 3. Section 61416 is added to the Food and Agricultural Code, to read:

61416. The director may revoke or suspend any license of a

handler if the director finds as a result of a noticed hearing that the handler has not paid for any manufacturing milk delivered to him or her at the time and in the manner specified in the contract with the producer.

SEC. 4. Section 61417 is added to the Food and Agricultural Code, to read:

61417. In lieu of revoking or suspending a handler's license under Section 61416, the director may impose any other conditional and probationary orders, pursuant to a noticed hearing, that may be proper for the enforcement of this chapter or to enforce any provision of any regulation adopted by the director pursuant to Section 61341.

SEC. 5. Section 61418 is added to the Food and Agricultural Code, to read:

61418. If the respondent does not comply with any conditional or probationary orders, the director may suspend or revoke the license in accordance with the procedure provided in Sections 32811, 32812, and 32813.

SEC. 6. Section 61419 is added to the Food and Agricultural Code, to read:

61419. (a) Whenever the director is satisfied, either by investigation or after a hearing, that a handler is unable to pay for any manufacturing milk purchased from any producer, and is further satisfied that to permit the handler to continue to purchase and receive any manufacturing milk from producers would be likely to cause serious and irreparable loss to producer-creditors and other producers, the director may thereupon and forthwith shorten the time for hearing that is provided for in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and thereupon may issue an order to show cause why the license of the handler should not be forthwith suspended or revoked. The time of notice of the hearing shall not, however, be less than five days. At the hearing the handler that is proceeded against shall be ordered to show cause why the license should not be suspended or revoked, or continued under conditions and provisions, if any, that the director may consider just and proper and for the protection of the best interests of the producer-creditors and producers from whom the handler has been and is receiving any manufacturing milk. Following the hearing, the decision of the director shall become effective at the director's discretion.

(b) The hearing, in the case of an emergency, may be called upon written notice which is served personally or by mail on the handler that is involved. If the notice is sent by mail, the hearing date shall be no sooner than 10 days after the notice is sent. It may be held at the nearest office of the director or at any place that may be most convenient in the discretion of the director for the attendance of all of the parties that are involved.

SEC. 7. Section 68081 of the Food and Agricultural Code is amended to read:

SEC. 5. Section 68081 of the Food and Agricultural Code is amended to read:

68081. The powers and duties of the commission, subject to Sections 68052 and 68053, include, but are not limited to, all of the following:

(a) To adopt, and from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including appeals from any bylaw, rule, regulation, or order of the commission in a manner established by the commission.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairman, one or more vice chairmen, and any other officers as it deems necessary. The officers have the powers and duties delegated to them by the commission.

(d) To employ a person to serve, at the pleasure of the commission, as president and chief executive officer of the commission and other personnel, including legal counsel, as necessary to carry out the provisions of this chapter. The commission may retain a management firm or any staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective, and if appropriate, disciplinary action be taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out the provisions of this chapter.

(g) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create any liabilities and borrow any funds in advance of receipt of assessments that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(h) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers and handlers of kiwifruit, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he or she determines necessary,

conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(i) To promote the sale of kiwifruit by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for kiwifruit and to educate and instruct the public with respect to kiwifruit and the uses and time to use the several varieties and the healthful properties and nutritional value of kiwifruit.

(j) To educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling kiwifruit; to arrange for the performance of dealer service work providing display and other promotional materials; to make market surveys and analyses; to present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the marketing of kiwifruit.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements that the commission may deem necessary for the promotion of the sale of kiwifruit.

(*l*) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from such research or elsewhere respecting cultural and production practices, marketing, and distribution of kiwifruit. In connection with the research, the commission has the power to accept contributions of, or to match, private, state, or federal funds that may be available for such purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the kiwifruit industry to producers and handlers.

(n) To establish an assessment rate to defray operating costs of the commission.

(o) To establish an annual budget according to acceptable accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e).

(p) To submit a statement of contemplated annual activities authorized under this chapter, including advertising, promotion, marketing research, and production research, which shall be concurred in by the director.

(q) To administer, if requested by an advisory board, a board of directors, or any other authorized agent of a governmental program, any governmental program establishing grades and standards for the kiwifruit industry.

(r) The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

SEC. 8. Section 68101 of the Food and Agricultural Code is

amended to read:

68101. The commission shall not later than October 1 of each year, establish the assessment for the following year beginning October 1 and ending September 30. In no event shall the combined assessment of the commission and any other state authorized kiwifruit production research and market program exceed 6 percent of the gross dollar value of the year's sale of kiwifruit by all producers to handlers.

Expenditures for administrative purposes, as defined by the commission, within the maximum assessment shall not exceed 1½ percent of the gross dollar value of sales of kiwifruit by all producers to handlers.

The commission shall establish producer gross dollar value through rules and regulations, taking into consideration postharvest expenses and the varying circumstances in handling the kiwifruit.

SEC. 9. Section 75026 of the Food and Agricultural Code, as added by Chapter 531 of the Statutes of 1983, is amended to read:

75026. "Districts" mean the following:

(a) District 1 (Southern California) consists of the Counties of San Diego, Imperial, Orange, Riverside, San Bernardino, Los Angeles, Ventura, Santa Barbara, Kern, and San Luis Obispo.

(b) District 2 (Northern California) consists of all counties not included in District 1.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, to ensure proper representation by handlers. The boundaries need not coincide with county lines.

SEC. 10. Section 75171 of the Food and Agricultural Code, as added by Chapter 531 of the Statutes of 1983, is amended to read:

75171. (a) Between January 1, 1989, and December 31, 1989, the commission shall conduct a referendum among handlers in the manner prescribed in Section 75112 to determine whether the operation of this chapter shall be reapproved and continued in effect.

(b) If the director finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain operative. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the marketing season ending December 31, 1989. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 75175.

(c) No bond or security is required for the referendum.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or

eliminates a crime or infraction.

CHAPTER 858

An act to amend Sections 18000, 18003, 18130, 18147, 18191, 18211, 18212.1, 18216, 18218, 18265, 18266, 18273, 18295, 18314, 18314.5, 18317, 18319, and 18320 of, to add Section 18191.5 to, to repeal Sections 18133, 18134, 18135, 18313, 18322, 18323, and 18324 of, and to repeal and add Sections 18131, 18132, and 18205 of, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983]

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

SECTION 1. The Legislature hereby recognizes that there has been a rapid change in the authorized powers and operations of state licensed and federally chartered banks, savings and loans, credit unions, and other thrift and financial institutions. In reference to this change, and to simplify the law governing California licensed industrial loan companies, while promoting the convenience, advantage, and best interests of California residents and encouraging competition between financial institutions licensed and operating in California, the Legislature finds and declares that:

(1) Industrial loan companies, also known as thrift and loan companies are financial institutions that have been an important source of funds for consumers and have provided working capital to California businesses since 1917.

(2) The ability of industrial loan companies to issue thrift investment certificates and to invest its funds have been seriously affected by the rapid change in federal and state laws affecting commercial banks, savings and loans, and credit unions.

(3) It is in the best interests of the people of the State of California that the Industrial Loan Law be simplified and create a greater parity for industrial loan companies with other financial institutions for the conduct of their business.

SEC. 2. Section 18000 of the Financial Code is amended to read:

18000. This division shall be known and may be cited as the "Industrial Loan Law" or the "Thrift and Loan Law."

SEC. 3. Section 18003 of the Financial Code is amended to read:

18003. "Industrial loan company", "thrift and loan company", or "company" means any corporation which in the regular course of business loans money and issues its own choses in action under the provisions of this division.

SEC. 4. Section 18130 of the Financial Code is amended to read:

18130. The capital stock of an industrial loan company incorporated under this division shall not be less than:

(a) Five hundred thousand dollars ($500,000), if incorporated or commencing business on or before July 8, 1975.

(b) Seven hundred fifty thousand dollars ($750,000), and a paid-in surplus of five hundred thousand dollars ($500,000), at the time business is commenced, if incorporated or commencing business on or after July 9, 1975.

(c) Industrial loan companies which commenced business prior to July 9, 1975, and which do not meet the capital stock and paid-in surplus requirements of this section shall be governed until January 1, 1987, by Sections 18130, 18131, 18132, 18133, 18134, and 18135 of the Financial Code, as in effect on December 31, 1983.

SEC. 5. Section 18131 of the Financial Code is repealed.

SEC. 6. Section 18131 is added to the Financial Code, to read:

18131. In addition to the capital stock required by Section 18130, an industrial loan company which has branch offices or which opens an additional branch office or place of business shall have additional capital stock of fifty thousand dollars ($50,000) for each branch office.

SEC. 7. Section 18132 of the Financial Code is repealed.

SEC. 8. Section 18132 is added to the Financial Code, to read:

18132. An industrial loan company may declare a dividend on its capital stock only if the company has minimum unimpaired capital of seven hundred fifty thousand dollars ($750,000) plus additional capital stock of fifty thousand dollars ($50,000) for each branch office.

SEC. 9. Section 18133 of the Financial Code is repealed.

SEC. 10. Section 18134 of the Financial Code is repealed.

SEC. 11. Section 18135 of the Financial Code is repealed.

SEC. 12. Section 18147 of the Financial Code is amended to read:

18147. The commissioner shall not approve an application for a branch office until the commissioner has ascertained to his or her satisfaction that the facts set forth in the application are true and:

(a) That the public convenience and advantage will be promoted by the establishment of the proposed branch office.

(b) That the industrial loan company has the capital required by this division.

(c) That the industrial loan company has established branch operational controls.

(d) That the financial condition of the industrial loan company justifies the establishment of the proposed branch office.

SEC. 13. Section 18191 of the Financial Code is amended to read:

18191. Sections 18008, 18009, 18010, 18212, 18212.1, 18214, 18219, 18220, 18222, 18230 through 18234, 18290 through 18295, and 18439 do not apply to:

(a) Any bona fide loan of a principal amount of ten thousand dollars ($10,000) or more or to an industrial loan company in connection with any such loan if the provisions of the section are not used for the purpose of evading this division.

(b) An amount due from a contingent guarantor on his or her obligations purchased under the provisions of this division.

(c) A loan to a primary borrower who has pledged accounts

receivable or installment accounts to secure loans which taken in the aggregate amount to ten thousand dollars ($10,000) or more.

SEC. 14. Section 18191.5 is added to the Financial Code, to read:

18191.5. Sections 18008, 18009, 18010, 18212, 18212.1, and 18214 do not apply to:

(a) Any bona fide loan of a principal amount of five thousand dollars ($5,000) or more to an industrial loan company in connection with any such loan if the provisions of the section are not used for the purpose of evading this division.

(b) An amount due from a contingent guarantor on his or her obligations purchased under the provisons of this division.

(c) A loan to a primary borrower who has pledged accounts receivable or installment accounts to secure loans which taken in the aggregate amount to five thousand dollars ($5,000) or more.

SEC. 15. Section 18205 of the Financial Code is repealed.

SEC. 16. Section 18205 is added to the Financial Code, to read:

18205. Except as otherwise provided for in this division, an industrial loan company shall not make any loan or purchase or discount any other obligation that provides for a repayment of principal over more than 120 months.

SEC. 17. Section 18211 of the Financial Code is amended to read:

18211. No charge shall be collected unless a loan is made, except that an industrial loan company may charge, contract for, and receive a fee in connection with making a written commitment to make a loan, secured by real property having a face amount in excess of ten thousand dollars ($10,000) whether or not the loan is consummated, or in connection with the purchase, sale, or origination of a lease as lessor. Any fee with respect to a consumer loan shall be limited to the actual expenses incurred in connection with making a written commitment therefor.

SEC. 18. Section 18212.1 of the Financial Code is amended to read:

18212.1. As an alternative to the charges authorized by Section 18212 a licensee may contract for and receive charges at a rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

SEC. 19. Section 18216 of the Financial Code is amended to read:

18216. An appraisal fee may be charged by an industrial loan company for any loan which is secured primarily by real property. Such fee shall not exceed the actual cost of the appraisal or 1 percent of the face amount of the loan, whichever is the lesser. The appraisal

must be rendered to the industrial loan company in writing by a qualified appraiser approved in writing by the commissioner. Only one such fee for appraising the same real property made in connection with the same borrower may be collected in any 12-month period. Such fee is not included in computing the maximum charges which may be made under this division.

SEC. 20. Section 18218 of the Financial Code is amended to read:

18218. Regardless of any other provisions of this division, an industrial loan company in the collection of a delinquent loan of an unpaid principal balance may:

(a) Collect and receive the court costs and reasonable attorney's fees allowed by a court in a judgment against a defaulting debtor.

(b) Contract for, collect and receive the bona fide expenses actually incurred and paid by the industrial loan company, not exceeding 10 percent of the unpaid principal balance of the loan where no judgment at law is sought.

SEC. 21. Section 18265 of the Financial Code is amended to read:

18265. An industrial loan company that has investment certificates outstanding shall not make any loan or purchase or discount any other obligation with a maturity of more than 60 months and 15 days unless all of the following conditions are met:

(a) The loan or other obligation is secured.

(b) The property, or collateral securing the loan or other obligation, is of a kind or class that has been declared eligible by regulation of the commissioner.

(c) The aggregate principal balance of such loans and other obligations outstanding with a remaining maturity of more than 60 months and 15 days at any time shall not exceed a percentage of the aggregate principal balance due on all loans and other obligations owing to the industrial loan company by rule of the commissioner.

SEC. 22. Section 18266 of the Financial Code is amended to read:

18266. Any loan or other obligation made or acquired by an industrial loan company that has investment certificates outstanding which is secured primarily by real property and has an outstanding principal balance of five thousand dollars ($5,000) or more shall be secured by real property or personal property having combined a fair market value at the time the loan or other obligation is made or acquired of at least 115 percent of the principal amount owing on the loan or obligation and on prior encumbrances, except nondelinquent tax liens, secured by the same real property. Fair market value of the real property for the purposes of this section shall be determined by a real property appraiser who meets the qualifications established by regulation of the commissioner. Any loan or obligation made or acquired by an industrial loan company that has investment certificates outstanding which is secured solely by motor vehicles or other personal property shall be secured by such property having a fair market value at the time the loan or other obligation is made or acquired of at least 100 percent of the principal amount owing on the loan or obligation. The personal property held as security shall be of

a kind or class that has been declared eligible by regulation of the commissioner.

SEC. 23. Section 18273 of the Financial Code is amended to read:

18273. Secured loans or obligations for purposes of Sections 18265, 18271, and 18272 must be secured by motor vehicles or other personal property collateral of a market value of at least 100 percent or real property collateral of a market value of at least 115 percent of the principal amount owing on the loans or obligations. The personal property or collateral held as security shall be of a kind or class that has been declared eligible by regulation of the commissioner.

SEC. 24. Section 18295 of the Financial Code is amended to read:

18295. An industrial loan company may collect the costs of title insurance for loans secured primarily by real property. The costs for such insurance may be collected if:

(1) The principal amount of the loan is at least one thousand dollars ($1,000);

(2) The loan is secured by a lien of a deed of trust or mortgage on real property which is the subject of such policy of title insurance;

(3) The policy of title insurance is made payable to the lender or jointly to such lender and the borrower as their interests may appear;

(4) The coverage of such insurance may not exceed the lesser of the principal amount of the loan or the fair market value of the real property less prior encumbrances;

(5) The insurance is placed at standard rates through a title insurance company authorized to do business in the State of California;

(6) In connection with the renewal or extension of a loan, the additional cash advance is at least one thousand dollars ($1,000).

Such costs as herein authorized are not included in the maximum charges which may be made under this division.

SEC. 25. Section 18313 of the Financial Code is repealed.

SEC. 26. Section 18314 of the Financial Code is amended to read:

18314. (a) An industrial loan company shall not originate or purchase a consumer lease contract, except motor vehicle leases, unless such lease is payable in equal or substantially equal periodic payments during the term of the lease contract. The maximum term and the maximum final payment on motor vehicle lease contracts may be determined by regulation of the commissioner.

(b) Notwithstanding the provisions of subdivision (a), a lease contract may grant the lessee an option to purchase the leased property at the expiration of the lease term.

(c) For purposes of this section, a consumer lease contract is a contract under which the property leased is primarily for personal, family, or household purposes.

(d) The commissioner may establish rules and regulations pursuant to this section.

SEC. 27. Section 18314.5 of the Financial Code is amended to read:

18314.5. An industrial loan company shall not hold lease

obligations of any one person as primary obligor in an aggregate amount due in excess of 10 percent of the unimpaired capital and surplus of the company not available for dividends as provided in Section 18319.

SEC. 28. Section 18317 of the Financial Code is amended to read:

18317. No company may have investment certificates outstanding with a person or related persons in an aggregate amount in excess of 20 percent of the unimpaired capital and surplus of the company not available for dividends as provided in Section 18319.

SEC. 29. Section 18319 of the Financial Code is amended to read:

18319. In no event shall an industrial loan company have outstanding at any time its investment certificates (exclusive of those hypothecated with the company issuing them) in an aggregate sum in excess of 20 times the aggregate amount of its paid-up and unimpaired capital and such of its unimpaired surplus as is declared by a bylaw of the company to be not available for cash dividends. The commissioner by rule or by order issued pursuant to Section 18315, may limit the amount of outstanding investment certificates of an industrial loan company.

SEC. 30. Section 18320 of the Financial Code is amended to read:

18320. Notwithstanding the provisions of Section 18319, an industrial loan company shall in no event:

(a) Have outstanding at any time during its first 12 months of operation as an industrial loan company under this division, its investment certificates (exclusive of those hypothecated with the company issuing them) in an aggregate sum in excess of three times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(b) After 12 months of operation as an industrial loan company under this division and during the next 12 months of operation the industrial loan company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed six times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(c) After 24 months of operation as an industrial loan company under this division and during the next 12 months of operation the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed eight times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(d) After 36 months of operation as an industrial loan company under this division and during the next 12 months of operation the

company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed 12 times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(e) After 48 months of operation as an industrial loan company under this division and during the next 12 months of operation the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which, exclusive of those investment certificates hypothecated with the company issuing them, in no event shall exceed 15 times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319, only if both of the following requirements are met:

(1) A company shall maintain a liquidity reserve in cash, or cash equivalent, equal to 1½ percent of its total investment certificates outstanding. "Cash equivalent" is defined as investments legal for commercial banks under the laws of this state, with a maturity of not more than 12 months.

(2) In addition to the reserve for losses required by the commissioner pursuant to Section 18343, a company shall establish and maintain such special reserves for losses as the commissioner, by rule or order, may require.

(f) After 60 months of operation as an industrial loan company under this division, the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which it may have outstanding, which, exclusive of those investment certificates hypothecated with the company issuing them, in no event shall exceed 20 times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319, and which may exceed 15 times the amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319 only if the requirements of subdivision (e) are met and the capital stock is not less than one million two hundred fifty thousand dollars ($1,250,000) and the unimpaired paid-in surplus is not less than seven hundred fifty thousand dollars ($750,000).

(g) Whenever the commissioner deems it reasonable and necessary or advisable for the protection of the public, the commissioner may at any time by order authorize said industrial loan company to have its investment certificates outstanding in either a lesser aggregate sum than the maximum aggregate amounts permitted by subdivision (a), (b), (c), (d), (e) or (f), or none at all.

(h) The request for authority filed with the commissioner pursuant to subdivisions (b), (c), (d), (e) and (f) shall be set forth in an application in such form and containing such information as the

commissioner may require.

(i) The commissioner shall by rule or regulation set forth the criteria that must be met before an industrial loan company can be granted authority to increase the aggregate sum of its outstanding investment certificates.

(j) If the commissioner does not within 60 days of the filing of an application grant a request by an industrial loan company operating under this division, for authority to increase the aggregate sum of its outstanding investment certificates to the requested amount, or issues an order pursuant to subdivision (g) such company may file with the commissioner its written request for hearing in accordance with the provisions of subdivisions (d) and (e) of Section 18315.

SEC. 31. Section 18322 of the Financial Code is repealed.

SEC. 32. Section 18323 of the Financial Code is repealed.

SEC. 33. Section 18324 of the Financial Code is repealed.

CHAPTER 859

An act to amend Section 25608 of, and to add Sections 25116 and 25211.5 to, the Corporations Code, and to amend Sections 22011, 22050, and 22053 of, and to repeal Section 22012 of, the Financial Code, relating to commercial transactions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 25116 is added to the Corporations Code, to read:

25116. An evidence of indebtedness issued pursuant to a qualification under this chapter, and the purchaser thereof, shall be exempt from the usury provisions of the State Constitution, subject to compliance by the issuer and purchaser with such terms and requirements as may be imposed by the commissioner as a condition of such qualification. This section creates and authorizes a class of persons pursuant to Section 1 of Article XV of the Constitution.

SEC. 2. Section 25211.5 is added to the Corporations Code, to read:

25211.5. A broker-dealer acting pursuant to a certificate which is then in effect and which is issued pursuant to Section 25211, shall be exempt from the usury provisions of the State Constitution. This section creates and authorizes a class of persons pursuant to Section 1 of Article XV of the Constitution.

SEC. 3. Section 22011 of the Financial Code is amended to read:

22011. "Commercial loan" means any loan for which any of the following apply:

(a) The borrower is a corporation, a general or limited partnership, or a joint venture.

(b) A substantial part of the security for the loan consists of property used primarily for other than personal, family, or household purposes.

(c) The borrower is self-employed, on a full- or part-time basis and represents in writing to the lender that a substantial portion of the proceeds of the loan will be used for the purpose of carrying on his or her business or businesses or acquiring a business or businesses. The lender shall not be required to ascertain that the proceeds of the loan are used in accordance with the representation.

A loan which otherwise qualifies as a commercial loan is not affected by the fact that any person other than the borrower may become or be personally obligated to repay the loan as either a comaker, endorser, or guarantor.

SEC. 4. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to clause 5 of subdivision (h) of Section 25102 and the fee for filing a notice pursuant to clause 4 of subdivision (f) of Section 25102, in addition to the fee prescribed in that clause, if applicable, shall be determined based on the value of the securities sold in the transaction for which the notice is filed and in accordance with subdivision (g), and shall be as follows:

Value of Securities Sold	*Filing Fee*
$25,000 or less	$ 25
$25,001 to $100,000	$ 35
$100,001 to $500,000	$ 50
$500,001 to $1,000,000	$150
Over $1,000,000	$300

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (j) of this section) is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750).

(f) The fee for filing an application for qualification of the sale of

securities by coordination under Section 25111 is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand five hundred fifty dollars ($1,550).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for such warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if such latter amount is not determinable at the time of qualification, such amount shall be the then value of such additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) One hundred dollars ($100) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities;

(2) One hundred dollars ($100) plus one-tenth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be sixty dollars ($60).

(j) The fee for an application for the removal of any condition

under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to such transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing such securities pursuant to subdivision (h) of Section 25102, is ten dollars ($10) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which such assessment is made. The pro rata share shall be the proportion which the broker-dealer's number of agents and offices in this state bears to the aggregate number of broker-dealer offices and agents in this state as shown by the annual reports to the commissioner. The pro rata share shall not include the costs of any examinations, audit, or investigation provided for in subdivision (r), unless they cannot be collected from the licensee examined, audited, or investigated.

(3) On or before the 30th day of May in each year, the commissioner shall notify each broker-dealer by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(4) In the levying and collection of the assessment, a broker-dealer shall not be assessed for nor be permitted to pay less than one hundred fifty dollars ($150) per year.

(5) If a broker-dealer fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the

commissioner may by order summarily suspend or revoke the certificate issued to such broker-dealer. If, after such an order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a broker-dealer shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that the revocation, suspension or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(p) The commissioner may by rule fix a fee of not to exceed twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is two hundred fifty dollars ($250), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year during the following calendar year. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding such hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his authority; provided, however, that such charges shall not be applicable to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h) or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by such rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

SEC. 5. Section 22012 of the Financial Code is repealed.

SEC. 6. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

SEC. 6.5. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

SEC. 7. Section 22053 of the Financial Code is amended to read:

22053. The following sections of this division do not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to any commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale, or to a duly licensed personal property broker in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 22004, 22005, 22404, 22405, 22450, 22451, 22451.1, 22452, 22453, 22454, 22455, 22456, 22457, 22458, 22458.1, 22458.2, 22458.3, 22458.4, 22458.5, 22459, 22460, 22461, 22462, 22463, 22464, 22467, 22468, 22469, 22470, 22472, 22473, 22474, 22480, 22651, and 22652.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill 1966 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 22050 of the Financial Code, and this bill is chaptered after Assembly Bill 1966, that Section 22050 of the Financial Code, as amended by Section 1 of Assembly Bill 1966, be further amended on the effective date of this act in the form set forth in Section 6.5 of this act to incorporate the changes in Section 22050 proposed by this bill. Therefore, if this bill and Assembly Bill 1966 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill 1966 is chaptered before this bill and amends Section 22050, Section 6.5 of this act shall become operative on the effective date of this act and Section 6 of this act shall not become operative.

SEC. 9. The Commissioner of Corporations shall adopt emergency regulations to implement Section 4 of this act within 30 days from the effective date of this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Deregulation of securities transaction has resulted in the creation, by statute and by rule of the Commissioner of Corporations, of additional exemptions from the requirement of first obtaining the commissioner's authorization under the Corporate Securities Law of 1968 to sell securities in this state. This action has substantially narrowed the range of issuers who are subject to the qualification requirements under the law and who, therefore, provide a substantial portion of revenue under the law to fund the securities law regulatory program. Concurrently, a greater portion of the Department of Corporations' enforcement activities have had to be devoted to transactions for which exemptions from the law are claimed. Accordingly, revenue under the securities law must be adjusted more in line with the matters which occasion expenditures under that law so that the integrity of the exemptions can be maintained and the public investors protected thereby.

CHAPTER 860

An act to amend Section 65306 of, and to add and repeal Chapter 4.4 (commencing with Section 65919) of Division 1 of Title 7 of, the Government Code, relating to land use.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 65306 of the Government Code is amended to read:

65306. (a) Whenever a county planning agency is considering a general plan or any part or element thereof it shall be referred to the planning agency of every city within the county, every other city which abuts upon such county, every county which abuts upon such county, the local agency formation commission of the county and each adjoining county, and every county or city the territory of which is included in the plan, or part or element of the plan, for the purpose of informing such planning agency or agencies of the plan, or part or element of the plan, and receiving its or their comments thereon. The provisions of this section are directory, not mandatory, and the failure to refer such plan or any part or element thereof as herein provided shall not in any manner affect its validity.

(b) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 2. Chapter 4.4 (commencing with Section 65919) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.4. INTERAGENCY REFERRALS

65919. As used in this chapter:

(a) "Affected city" means a city within whose planning review area an affected territory is located.

(b) "Affected territory" means an area of land located in the unincorporated portion of a county which is the subject on one or more proposed actions.

(c) "Proposed action" means a proposal to adopt or amend all or part of a general or specific plan or to adopt or amend a zoning ordinance, but does not include action taken by an ordinance which became effective immediately pursuant to subdivision (b) or (d) of Section 25123 or pursuant to Section 65858.

(d) "Planning review area" means the territory included in a city's general plan or in any specific plans of the city. A planning review area shall not extend beyond whichever of the following includes the largest area:

(1) The area included within the sphere of influence of the city.

(2) A radius of one mile outside the boundary of the city which area shall not include any territory within the sphere of influence of another city.

(3) An area which is agreed upon and designated by a county and a city within the county.

65919.1. A county and a city may agree upon a procedure for referral by the county to the city of proposed actions and for comment upon those proposals by the city. In the absence of such an agreement, the procedures prescribed by this chapter shall be followed.

65919.2. A city which desires referrals from a county pursuant to this chapter shall file with the county a map or other appropriate document which indicates the portion of the county in its planning review area.

65919.3. Except as otherwise provided in Section 65919.10, before the board of supervisors acts on a proposed action, the county shall refer the proposed action to each affected city, in accordance with the procedure set forth in Sections 65919.4 and 65919.5.

65919.4. Not later than the date the county notices the public hearing on a proposed action before its planning commission, the county shall notify an affected city of the nature of the proposed action. The information in the notification shall not be less than the information contained in the notice of public hearing. The notification required by this section and by Section 65919.8 shall be given by first-class mail or by hand delivery. It shall also indicate the earliest date on which the board of supervisors can act on the proposed action or the modification to the proposed action.

65919.5. The legislative body of any city to which the proposed

action is referred pursuant to Section 65919.3 shall have 45 days from the date the county mails or delivers the proposed action, or such longer time as the county specifies or allows at the request of the affected city, to review and to comment and to make recommendations on the consistency of the proposed action with applicable general and specific plans and zoning ordinances of the affected city. If the affected city does not provide the comments and recommendations to the county within the 45-day period, or such longer time as the county has specified or allowed at the request of the affected city, the board of supervisors may act without considering the city's comments.

If the affected city provides the comments and recommendations prior to the time that the county planning commission acts on the proposed action, the planning commission shall also consider the affected city's comments and recommendations.

65919.6. Before acting upon a proposed action, the county shall consider comments and recommendations received from each affected city.

65919.7. If the board of supervisors modifies and refers a proposed action back to the planning commission pursuant to Section 65356 or 65857, at the same time as the board refers the modification to the planning commission, the board shall refer the modification to the proposed action to each affected city in accordance with Sections 65919.8 and 65919.9.

65919.8. The referral shall reasonably describe the modification to the proposed action. Any city to which the modification is referred shall have 25 days from the date of the referral, or such longer time as the county specifies or allows at the request of the affected city, to review and to comment and to make recommendations on the consistency of the proposed action with applicable general and specific plans and zoning ordinances of the affected city. If the affected city does not provide the comments and recommendations to the county within the 25-day period, or such longer time as the county has specified or allowed at the request of the affected city, the board of supervisors may act without considering the city's comments.

If the affected city provides the comments and recommendations prior to the time that the county planning commission acts on the proposed action, the planning commission shall also consider the affected city's comments and recommendations.

If the planning commission fails to act, the modification may become effective pursuant to Section 65356 or 65857, without consideration of the comments and recommendations.

65919.9. Prior to acting on the modification, the board of supervisors shall consider the comments and recommendations received from each affected city.

65919.10. Where the proposed action is a change in a zoning ordinance, the county need not refer the zoning proposal to an affected city if the zoning proposal is consistent with the general

plan, and the general plan proposal was referred and acted upon pursuant to Sections 65919.4 to 65919.9, inclusive, as applicable.

65919.11. Failure to comply with the procedural requirements of this chapter shall not affect the validity of any proposed action.

65919.12. This chapter shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 861

An act to add Section 6518 to the Government Code, relating to transportation.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 6518 is added to the Government Code, to read:

6518. (a) A joint powers agency, without being subject to any limitations of any party to the joint powers agreement pursuant to Section 6509, may also finance or refinance the acquisition or transfer of transit equipment or transfer federal income tax benefits with respect to any transit equipment by executing agreements, leases, purchase agreements, and equipment trust certificates in the forms customarily used by a private corporation engaged in the transit business to effect purchases of transit equipment, and dispose of the equipment trust certificates by negotiation or public sale upon terms and conditions authorized by the parties to the agreement. Payment for transit equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates payable from any source or sources of funds specified in the equipment trust certificates that are authorized by the parties to the agreement. Title to the transit equipment shall not vest in the joint powers agency until the equipment trust certificates are paid.

(b) An agency which finances or refinances transit equipment or transfers federal income tax benefits with respect to transit

equipment under subdivision (a) may provide in the agreement to purchase or lease transit equipment any of the following:

(1) A direction that the vendor or lessor shall sell and assign or lease the transit equipment to a bank or trust company, duly authorized to transact business in the state as trustee, for the benefit and security of the equipment trust certificates.

(2) A direction that the trustee shall deliver the transit equipment to one or more designated officers of the entity.

(3) An authorization for the joint powers agency to execute and deliver simultaneously therewith an installment purchase agreement or a lease of equipment to the joint powers agency.

(c) An agency which finances or refinances transit equipment or transfers federal income tax benefits with respect to transit equipment under subdivision (a) shall do all of the following:

(1) Have each agreement or lease duly acknowledged before a person authorized by law to take acknowledgements of deeds and be acknowledged in the form required for acknowledgement of deeds.

(2) Have each agreement, lease, or equipment trust certificate authorized by resolution of the joint powers agency.

(3) Include in each agreement, lease, or equipment trust certificate any covenants, conditions, or provisions which may be deemed necessary or appropriate to insure the payment of the equipment trust certificate from legally available sources of funds, as specified in the equipment trust certificates.

(4) Provide that the covenants, conditions, and provisions of an agreement, lease, or equipment trust certificate do not conflict with any of the provisions of any trust agreement securing the payment of any bond, note, or certificate of the joint powers agency.

(5) File an executed copy of each agreement, lease, or equipment trust certificate in the office of the Secretary of State, and pay the fee, not to exceed one dollar ($1), for each copy filed.

(d) The Secretary of State may charge a fee, not to exceed one dollar ($1) for the filing of an agreement, lease, or equipment trust certificate under this section. The agreement, lease, or equipment trust certificate shall be accepted for filing only if it expressly states thereon in an appropriate manner that it is filed under the provisions of this section. The filing constitutes notice of the agreement, lease, or equipment trust certificate to any subsequent judgment creditor or any subsequent purchaser.

(e) Each vehicle purchased or leased under this section shall have the name of the owner or lessor plainly marked on both sides thereof followed by the appropriate words "Owner and Lessor" or "Owner and Vendor," as the case may be.

CHAPTER 862

An act to amend Sections 10167.10 and 10167.11 of the Business and Professions Code, relating to real estate.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 10167.10 of the Business and Professions Code is amended to read:

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 obtains a rental other than through the services of the licensee during the term of the contract or 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. Within 10 days of receipt of such a demand by the prospective tenant, the licensee shall refund any amount over and above the sum of a twenty-five dollar ($25) service charge to the prospective tenant.

(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 days after payment of an advance fee, the licensee has not supplied the prospective tenant with at least three 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 10 days after the expiration of the five-day period.

"If the prospective tenant obtains a rental other than through the services of the licensee during the term of this contract or if the prospective tenant does not obtain a rental through the services of the licensee during the term of the contract, the licensee shall refund the fee received in excess of a twenty-five dollar ($25) service charge to the prospective tenant within 10 days after receipt by the licensee of the demand for refund.

To be entitled to a refund in excess of the service charge, the prospective tenant must mail or deliver the demand for refund not later than 10 days after 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 obtains a rental other than through the services of the licensee during the term of this contract or if the prospective tenant does not obtain a rental through the services of the licensee during the term of the contract, the licensee shall refund the fee received in excess of a twenty-five dollar ($25) service charge to the prospective tenant within 10 days after receipt by the licensee of the demand for refund.

To be entitled to a refund in excess of the service charge, the prospective tenant must mail or deliver the demand for refund not later than 10 days after 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 the licensee fails to make a refund as provided in this section and if the denial or delay in making the refund is found to have been done in bad faith, a court of appropriate jurisdiction, including 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.

SEC. 2. Section 10167.11 of the Business and Professions Code is amended to read:

10167.11. It shall be a violation of this article for any licensee or any employee or agent of a licensee to do the following:

(a) Make, or cause to be made, any false, misleading, or deceptive advertisements or representations concerning the services that the licensee will provide to prospective tenants.

(b) Refer a property to a prospective tenant knowing or having reason to know that:

(1) The property does not exist or is unavailable for tenancy.

(2) The property has been described or advertised by or on behalf of the licensee in a false, misleading, or deceptive manner.

(3) 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.

(4) The licensee has not obtained written or oral permission to list the property from the property owner, manager, or other authorized agent.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 863

An act to add Section 831.7 to the Government Code, relating to public liability.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 831.7 is added to the Government Code, to read:

831.7. (a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or

herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.

(b) As used in this section, "hazardous recreational activity" means a recreational activity conducted on property of a public entity which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

(1) Water contact activities, except diving, in places where or at a time when lifeguards are not provided and reasonable warning thereof has been given or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited and reasonable warning thereof has been given.

(3) Animal riding, including equestrian competition, archery, bicycle racing or jumping, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, spelunking, sky diving, sport parachuting, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging, water skiing, white water rafting, and wind surfing.

(c) Notwithstanding the provisions of subdivision (a), this section does not limit liability which would otherwise exist for any of the following:

(1) Failure of the public entity or employee to guard or warn of a known dangerous condition or of another hazardous recreational activity known to the public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.

(2) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for a specific fee. For the purpose of this paragraph, a "specific fee" does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.

(3) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.

(4) Damage or injury suffered in any case where the public entity

or employee recklessly or with gross negligence promoted the participation in or observance of a hazardous recreational activity. For purposes of this paragraph, promotional literature or a public announcement or advertisement which merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(5) An act of gross negligence by a public entity or a public employee which is the proximate cause of the injury.

Nothing in this subdivision creates a duty of care or basis of liability for personal injury or for damage to personal property.

(d) Nothing in this section shall limit the liability of an independent concessionaire, or any person or organization other than the public entity, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

CHAPTER 864

An act to amend Sections 51283 and 51284 of the Government Code, relating to agricultural land, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 51283 of the Government Code is amended to read:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the full cash value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) Prior to giving tentative approval to the cancellation of any contract the board or council shall determine and certify to the county auditor the amount of the cancellation fee which the landowner must pay the county treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 12½ percent of the cancellation valuation of the property.

(c) If they find that it is in the public interest to do so the board or council may waive any such payment or any portion thereof, or may extend the time for making such payment or a portion thereof contingent upon the future use made of the land and its economic

return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, provided:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner;

(2) The board or council has determined it is in the best interests of the program to conserve agricultural land use that such payment be either deferred or not required; and

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the local agency is consistent with the policies of this chapter and that the local agency complied with the provisions of this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the local agency, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the Controller and be deposited in the General Fund. The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the board's or council's execution of a certificate of cancellation of contract, as specified in subdivision (b) of Section 51283.4.

(e) The first four hundred fifty thousand dollars ($450,000) of revenue paid to the Controller pursuant to subdivision (d), in the 1984–85 fiscal year and any fiscal year thereafter, shall be paid to the State Treasury to the credit of the Farmlands Mapping Account, which is hereby created in the General Fund. These funds shall be available for appropriation to the Department of Conservation for purposes of the farmlands mapping and monitoring program established pursuant to Section 65570. All unencumbered funds in the Farmlands Mapping Account as of June 30 of each fiscal year shall revert to the General Fund.

SEC. 2. Section 51284 of the Government Code is amended to read:

51284. No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code and shall be mailed to the Director of Conservation and every owner of land under contract, and any portion of which is situated within the same agricultural preserve and within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose

of making reimbursement 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:

This act will ensure that fees payable by landowners in connection with the cancellation of contracts executed under the Williamson Act will be transmitted to the state in a timely fashion. As the result of the enactment of Chapter 1095 of the Statutes of 1981, it is anticipated that those cancellation fees will increase. In order that the payment schedule for cancellation fees which is established by this act may be operative with respect to the anticipated increase in fees resulting from Chapter 1095 of the Statutes of 1981 at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 865

An act to amend Sections 4081 and 4386 of, and to add Sections 4081.5, 4366, and 4367 to, the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 4081 of the Business and Professions Code is amended to read:

4081. (a) Each application to conduct a pharmacy shall be made on a form furnished by the board, and shall state the name, address, usual occupation, and professional qualifications, if any, of the applicant. If the applicant is other than a natural person, the application shall state such information as to each person beneficially interested therein.

(b) As used in this section, and subject to the provisions of subdivision (c) of this section, the term "person beneficially interested" means and includes:

(1) If the applicant is a partnership or other unincorporated association, each partner or member.

(2) If the applicant is a corporation, each of its officers, directors and stockholders provided that no natural person shall be deemed to be beneficially interested in a nonprofit corporation.

(c) In any case where the applicant is a partnership or other unincorporated association, or is a corporation, and where the

number of partners, members or stockholders, as the case may be, exceeds five, the application shall so state, and shall further state such information as to each of the five partners, members or stockholders who own the five largest interests in the applicant entity. Upon request by the executive secretary, the applicant shall furnish the board with such information as to partners, members or stockholders not named in the application, or shall refer the board to an appropriate source of such information.

(d) The application shall contain a statement to the effect that the applicant has not been convicted of a felony and has not violated any of the provisions of this chapter. If the applicant cannot make this statement the application shall contain a statement of the violation, if any, or reasons which will prevent the applicant from being able to comply with the requirements with respect to the statement.

(e) Upon the approval of such application by the board and paying the fee required by this chapter for each pharmacy, the executive secretary of the board shall issue a permit to conduct a pharmacy under the provisions of Section 4080, if all of the provisions of this chapter have been complied with. Any other provision of law notwithstanding, such permit shall authorize the holder to conduct a pharmacy and to sell and dispense prophylactics, hypodermics, hypnotics, and poisons. The permit shall be renewed annually on or before November 1st of each year and shall not be transferable, and any change in the beneficial ownership interest of such pharmacy shall be reported within 30 days thereafter upon a form to be furnished by the board.

SEC. 2. Section 4081.5 is added to the Business and Professions Code, to read:

4081.5. Upon receipt of an application for a license and the applicable fee, the board shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license. The board shall also determine whether the provisions of this article have been complied with, and shall investigate all matters directly related to the issuance of the license which may affect the public welfare. The board shall not, however, investigate any matters connected with the operation of a premises, including operating hours, parking availability or operating noise, other than those matters which, solely due to the furnishing, sale, or dispensing of narcotics, dangerous drugs, or dangerous devices might adversely affect the public welfare. The board shall deny an application for a license if either the applicant or the premises for which a license is applied do not qualify for a license under this article.

SEC. 3. Section 4366 is added to the Business and Professions Code, to read:

4366. Any person who has been denied a license, permit, or registration, or whose license, permit, or registration has been revoked or is under suspension, or who has failed to renew his or her license, permit, or registration while it was under suspension, or who

has been a member, officer, director, or associate of any partnership, corporation, firm, or association whose application for a license, permit, or registration has been denied, or has been revoked, is under suspension or has been placed on probation, and while acting as such member, officer, director, or associate had knowledge of or knowingly participated in any conduct for which the license, permit, or registration was denied, suspended, placed on probation or revoked, shall be prohibited from serving as an officer, director, associate, or partner of a licensee, permittee, or registrant. This prohibition shall remain in effect for a period not to exceed five years. Where the license, permit, or registration is denied or revoked, the prohibition shall continue until the license, permit, or registration is used or reinstated.

SEC. 4. Section 4367 is added to the Business and Professions Code, to read:

4367. Whenever a person is prohibited from serving as an officer, director, associate, or partner of a licensee, permittee, or registrant as provided for by Section 4366, the board shall notify in writing each licensee, permittee, or registrant for whom the person is an officer, director, or associate or partner of the prohibition. The board shall send the notification to the licensee, permittee, or registrant's address of record. The licensee, permittee, or registrant shall have 30 days from the date that the notice is sent to remove and replace the prohibited person and file a change of permit to reflect that change. Failure to file a change of permit within the 30-day period shall constitute grounds for disciplinary action.

SEC. 5. Section 4386 of the Business and Professions Code is amended to read:

4386. (a) Any person who has obtained a certificate, license, permit or registration to conduct a pharmacy, who fails to place in charge of such pharmacy a registered pharmacist, or any such person, who by himself, or by any other person, permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs, in his pharmacy, except by a registered pharmacist, or as otherwise provided in this chapter, is guilty of a misdemeanor.

(b) Any person who has obtained a certificate, license, permit, or registration to conduct a pharmacy, shall notify the board within 30 days of the termination of employment of any registered pharmacist who takes charge of, or acts as manager of the pharmacy. Failure to notify the board within the 30-day period shall constitute grounds for disciplinary action.

(c) Any person who has obtained a certificate, license, permit, or registration to conduct a pharmacy, who willfully fails to notify the board of the termination of employment of any registered pharmacist who takes charge of, or acts as manager of the pharmacy, and who continues to permit the compounding or dispensing of prescriptions, or the furnishing of drugs or poisons, in his or her pharmacy, except by a registered pharmacist, shall be subject to immediate suspension or revocation of his or her certificate, license,

permit, or registration to conduct a pharmacy.

(d) Any registered pharmacist who takes charge of, or acts as manager of a pharmacy, who terminates his or her employment at the pharmacy, shall notify the board within 30 days of termination of employment. Failure to notify the board within the 30-day period may constitute grounds for disciplinary action.

SEC. 6. This act shall become operative on July 1, 1984.

CHAPTER 866

An act to amend Sections 9801, 9802, 9803, 9805, 9819, 9820, 9823, 9825, and 9873 of the Business and Professions Code, relating to electronic and appliance dealers.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 9801 of the Business and Professions Code is amended to read:

9801. The following terms as used in this chapter have the meaning expressed in this section:

(a) "Person" includes firm, partnership, association, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Electronic and Appliance Repair.

(e) "Chief" means the Chief of the Bureau of Electronic and Appliance Repair.

(f) "Board" means the Electronic and Appliance Repair Advisory Board.

(g) "Service dealer" means a person who, for compensation, engages in the business of:

(1) Repairing, servicing, or maintaining television, radio, audio or video recorders or playback equipment, video cameras, video games, video monitors, or computer systems normally used or sold for personal, family, or household use.

(2) Installing, repairing, servicing, or maintaining radios, antennas, audio recorders or audio playback equipment normally used or sold for use in private motor vehicles.

(3) Installing, repairing, servicing, or maintaining television or radio receiver antennas or direct satellite signal receiving equipment located on or adjacent to a residence and not involving a function which is subject to and regulated under the provisions of Chapter 9 (commencing with Section 7000).

(4) Repairing, servicing, or maintaining major home appliances.

(h) "Equipment" for the purposes of this chapter means a set, appliance, antenna, rotator, and accessories.

(i) "Set" means any television, radio, audio or video recorder or playback equipment, video camera, video game, video monitor or computer system normally used or sold for personal, family, or household use.

(j) "Appliance" or "major home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, trash compactor, or room air conditioner normally used or sold for personal, family, or household use.

(k) "Antenna" or words of like import, means a resonant device designed especially for the purpose of capturing electromagnetic energy transmitted by direct satellite or commercial radio or television broadcasting facilities. An antenna, and its associated accessories, is not deemed to be a part of a set, and shall be considered, under this section, to be located outside or in the attic of a residence.

(*l*) "Rotator," when used in connection with an antenna installation or repair, means an electromechanical device operated from a remote location to rotate an antenna on a horizontal plane. A rotator and its associated accessories is not deemed to be a part of a set and shall be considered under this section, with the exception of the directional control unit, to be located outside or in the attic of a residence.

(m) "Accessories," when used in connection with an antenna or rotator installation or repair, means masts, towers, clamps, guy wires, eye hooks, standoff insulators, roof saddles, vent pipe mounts, chimney mount kits, signal amplifiers/boosters, multiset couplers, transmission lines, control cables, directional control units, and such other devices as may be used from time to time to effect such installation or repair.

(n) "Computer system" means a central processing unit which performs data manipulation functions, and any associated peripheral devices, including, but not limited to, keyboards, display terminals, printers, or disk drives.

(o) "Video game" means any electronic amusement device which utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube or a television set or a monitor.

(p) "Complainant" means the customer of a service dealer who has complained to the director concerning such service dealer.

(q) "Direct satellite signal receiving equipment" means receivers, down converters, amplifiers, and audio or video processors related to the reception of audio, video, or data signals broadcasted or rebroadcasted by communication satellites located in space.

(r) "Electronic repair industry" means those activities defined in paragraphs (1), (2), or (3) of subdivision (g).

(s) "Appliance repair industry" means those activities defined in paragraph (4) of subdivision (g).

SEC. 2. Section 9802 of the Business and Professions Code is

amended to read:

9802. This chapter does not apply to:

(a) Any employee of a service dealer while the employee is engaged in activities within the normal scope of the employer's business.

(b) The repair, service, or maintenance of equipment used in commercial, nonresidential, industrial, or governmental establishments.

(c) The repair, services, or maintenance of equipment the ordinary and usual use of which requires a license or permit issued by the Federal Communications Commission.

SEC. 3. Section 9803 of the Business and Professions Code is amended to read:

9803. When the installation service, maintenance, or repair of any television, radio, or audio or video recorder or playback equipment, video camera, video game, video monitor, or computer system normally used or sold for personal, family, or household use, or any appliance involves a function which is subject to and regulated under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of this code, such function shall be performed by a person who is licensed pursuant thereto.

SEC. 4. Section 9805 of the Business and Professions Code is amended to read:

9805. No person registered under this chapter shall be required to apply for a license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of this code if such person's activities consist only of repairing, servicing, or maintaining televisions, radio, or audio or video recorder or playback equipment, video camera, video game, video monitor, or computer system normally used or sold for personal, family, or household use, or any appliances, and such repair, service, or maintenance is not subject to and regulated under such Chapter 9.

SEC. 5. Section 9819 of the Business and Professions Code is amended to read:

9819. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment to the unexpired term.

SEC. 6. Section 9820 of the Business and Professions Code is amended to read:

9820. Five members of the advisory board shall be selected to represent the public, two members shall be selected from the electronic repair industry, and two members shall be selected from the appliance repair industry.

The Governor shall appoint three of the public members and the four members qualified as provided in this section subject to

confirmation by the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 7. Section 9823 of the Business and Professions Code is amended to read:

9823. The quorum required for any meeting of the board shall consist of five members, one of which shall be a representative of the electronic repair industry, and one of whom shall be a representative of the appliance repair industry. No action by the board or its members shall have any effect unless a quorum of the board is present. All meetings of the board shall be open and public.

SEC. 8. Section 9825 of the Business and Professions Code is amended to read:

9825. The board shall:

(a) Inquire into the practices of the electronic repair industry and the appliance repair industry, the functions of the bureau and the matter of the policy thereof, and make such recommendations with respect thereto as after consideration, may be deemed important and necessary for the welfare of the consuming public.

(b) Confer and advise the director and chief as to how the bureau may best fulfill its functions.

(c) Consider and make appropriate recommendations on its own initiative as to changes in, or additions to or deletions of regulations which the director has adopted as, after consideration, may be deemed important and necessary.

(d) Consider and make appropriate recommendations in all matters submitted to it by the director or the chief.

(e) Assist the director and the chief in the collection of such necessary information and data as the director or the chief may deem necessary to the proper administration of this chapter.

SEC. 9. Section 9873 of the Business and Professions Code is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred dollars ($100) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than two hundred dollars ($200).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred dollars ($100) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance

repair industry service dealer is not more than one hundred seventy-five dollars ($175).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for such license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 867

An act to add Sections 4886 and 4887 to the Business and Professions Code, relating to veterinary medicine.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 4886 is added to the Business and Professions Code, to read:

4886. In reinstating a license which has been revoked or suspended under Section 4883, the board may impose terms and conditions to be followed by the licensee after the certificate has been reinstated. The authority of the board 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 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 veterinary medicine.

(c) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the board. If the board requires the licensee to submit to such an examination, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(d) Restricting or limiting the extent, scope, or type of practice of the licensee.

SEC. 2. Section 4887 is added to the Business and Professions Code, to read:

4887. A person whose license has been revoked or who has been placed on probation may petition the board 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 facts as may be required by the board.

The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard by the board. The board may consider all activities of the petitioner since the discipinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the certificate was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board finds necessary.

The board reinstating the license or modifying a penalty may impose such terms and conditions as it determines necessary. To reinstate a revoked certificate or to otherwise reduce a penalty or modify probation shall require a vote of four of the members of the board.

The 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 board 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.

CHAPTER 868

An act to add Chapter 3.2 (commencing with Section 4217.10) to Division 5 of Title 1 of the Government Code, and to amend Section 2821 of, and to add Section 228.5 to, the Public Utilities Code, relating to energy conservation.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Chapter 3.2 (commencing with Section 4217.10) is added to Division 5 of Title 1 of the Government Code, to read:

CHAPTER 3.2. ENERGY CONSERVATION CONTRACTS

4217.10. To help implement the policy set forth in Section 25008 of the Public Resources Code, and to extend that policy to facilities of local governments, public agencies may develop energy conservation, cogeneration, and alternate energy supply sources at the facilities of public agencies in accordance with this chapter.

4217.11. The following terms, whenever used in this chapter, have the meanings given in this section, except where the context clearly indicates otherwise:

(a) "Alternate energy equipment" means equipment for the production or conversion of energy from alternate sources as its primary fuel source, such as solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, remote natural gas of less than one billion cubic feet estimated reserves per mile from an existing gas gathering line, natural gas containing 850 or fewer British Thermal Units per standard cubic foot, or any other source of energy, the efficient use of which will reduce the use of fossil or nuclear fuels.

(b) "Cogeneration equipment" means equipment for cogeneration, as defined in Section 218.5 of the Public Utilities Code.

(c) "Conservation measures" means equipment, maintenance, load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy.

(d) "Conservation services" means the electrical, thermal, or other energy savings resulting from conservation measures, which shall be treated as a supply of such energy.

(e) "Energy conservation facility" means alternate energy equipment, cogeneration equipment, or conservation measures located in public buildings or on land owned by public agencies.

(f) "Energy service contract" means a contract entered into by a public agency with any person, pursuant to which the person will provide electrical or thermal energy or conservation services to a public agency from an energy conservation facility.

(g) "Facility financing contract" means a contract entered into by a public agency with any person whereby the person provides financing for an energy conservation facility in exchange for repayment of the financing and all costs and expenses related thereto by the public agency. A facility financing contract may provide for the person with whom the public agency contracts to provide any combination of feasibility studies for, and design and construction of, all or part of the energy conservation facility in addition to the financing and other related services, and may provide for an installment sale purchase, another form of purchase, or amortized lease of the energy conservation facility by the public agency.

(h) "Facility ground lease" means a lease of all, or any portion of, land or a public building owned by, or under lease to, a public agency to a person in conjunction with an energy service contract or a facility financing contract. A facility ground lease may include, in addition to the land on which energy conservation facilities will be located, easements, rights-of-way, licenses, and rights of access, for the construction, use, or ownership by the person of the facility and all related utility lines not owned or controlled by the interconnecting utility, and offsite improvements related thereto. A facility ground lease may also include the addition or improvement of utility lines and equipment owned by the interconnecting utility which are necessary to permit interconnection between that utility

and an energy conservation facility.

(i) "Person" means, but is not limited to, any individual, company, corporation, partnership, public agency, state agency, association, proprietorship, trust, joint venture, or other entity or group of entities.

(j) "Public agency" means a county, city and county, city, district, community college district, school district, joint powers authority or other entity designated or created by a political subdivision relating to energy development projects, and any other political subdivision or public corporation in the state, except the State of California, the California State University, and the University of California.

(k) "Public building" includes any structure, building, facility, or work which a public agency is authorized to construct or use, and automobile parking lots, landscaping, and other facilities, including furnishings and equipment, incidental to the use of any structure, building, facility, or work, and also includes the site thereof, and any easements, rights-of-way appurtenant thereto, or necessary for its full use.

4217.12. Notwithstanding any other provision of law, a public agency may enter into an energy service contract and a facility ground lease on such terms as its governing body determines are in the best interests of the public agency if the determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds:

(a) That the anticipated cost to the public agency for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the public agency of thermal, electrical, or other energy that would have been consumed by the public agency in the absence of those purchases.

(b) That the difference, if any, between the fair rental value for the real property subject to the facility ground lease and the agreed rent, is anticipated to be offset by below-market energy purchases or other benefits provided under the energy service contract.

4217.13. Notwithstanding any other provision of law, a public agency may enter into a facility financing contract and a facility ground lease on such terms as its governing body determines are in the best interest of the public agency if the determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds that funds for the repayment of the financing or the cost of design, construction, and operation of the energy conservation facility, or both, as required by the contract, are projected to be available from revenues resulting from sales of electricity or thermal energy from the facility or from funding which otherwise would have been used for purchase of electrical, thermal, or other energy required by the public agency in the absence of the energy conservation facility, or both.

4217.14. Notwithstanding any other provision of law, the public

agency may enter into contracts for the sale of electricity, electrical generating capacity, or thermal energy produced by the energy conservation facility at such rates and on such terms as are approved by its governing body. Any such contract may provide for a commitment of firm electrical capacity.

4217.15. The public agency may, but is not required to, base the findings required under Sections 4217.12 and 4217.13 on projections for electrical and thermal energy rates from the following sources:

(a) The public utility which provides thermal or electrical energy to the public agency.

(b) The Public Utilities Commission.

(c) The State Energy Resources Conservation and Development Commission.

(d) The projections used by the Department of General Services for evaluating the feasibility of energy conservation facilities at state facilities located within the same public utility service area as the public agency.

4217.16. Prior to awarding or entering into an agreement or lease, the public agency may request proposals from qualified persons. After evaluating the proposals, the public agency may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations.

4217.17. The provisions of this chapter shall not be deemed to limit the authority of any public agency to construct energy conservation projects or to enter into other leases or contracts relating to the financing construction, operation, or use of alternate energy type facilities in any manner authorized under existing law.

4217.18. The provisions of this chapter shall be construed to provide the greatest possible flexibility to public agencies in structuring agreements entered into hereunder so that economic benefits may be maximized and financing and other costs associated with the design and construction of alternate energy projects may be minimized. To this end, public agencies and the entities with whom they contract under this chapter should have great latitude in characterizing components of energy conservation facilities as personal or real property and in granting security interests in leasehold interests and components of the alternate energy facilities to project lenders.

SEC. 2. Section 228.5 is added to the Public Utilities Code, to read:

228.5. (a) The terms "qualifying small power producer," "small power production facility," and "qualifying small power production facility" have the same meaning as found in Section 796 of Title 16 of the United States Code and regulations enacted pursuant thereto.

(b) Notwithstanding any other provision of law, a qualifying small power producer owning or operating a small power production facility is not a public utility subject to the general jurisdiction of the commission solely because of the ownership or operation of the

facility.

SEC. 3. Section 2821 of the Public Utilities Code is amended to read:

2821. The commission shall approve and establish equitable charges to be paid by an electrical corporation which purchases electricity or electrical generating capacity, or both, from any private energy producer employing other than a conventional power source for the generation of electricity.

The commission may also specify the prices, terms, and conditions for the purchase or sale of electricity or electrical generating capacity, or both, between an electrical corporation and a private energy producer, and these prices, terms, and conditions, so specified, shall be considered reasonable and prudent for all purposes. The commission may act to specify these prices, terms, and conditions on its own motion or on application of an electrical corporation or a private energy producer.

SEC. 4. (a) The Legislature finds that the solar water heater financing demonstration project ordered by the Public Utilities Commission is consistent with previous policy adopted by the Legislature to encourage the use of solar energy systems and is consistent with subdivision (a) of Section 2851 of the Public Utilities Code, which directs the Public Utilities Commission to investigate long-term financing of solar energy systems for utilities customers. Furthermore, policies developed by the Public Utilities Commission to stimulate the use of this demonstration program in multifamily dwellings were implemented 18 months after the start of the pilot program, leaving insufficient time to meet the projects target goals and insufficient time to provide for the proper installation of the solar units in these dwellings.

Therefore, the Legislature declares that it is in the best interest of the state's ratepayers to continue the existing solar water heater demonstration project for multifamily dwellings.

(b) The Public Utilities Commission shall extend the project for multifamily dwellings until September 15, 1984, for contracts and until December 15, 1984, for construction in order to assure optimum opportunity to attain the goals as originally set by the commission.

CHAPTER 869

An act to amend Sections 10202.8 and 10270.5 of the Insurance Code, relating to insurance.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 10202.8 of the Insurance Code is amended to read:

10202.8. A group life policy conforming to all the following conditions may be issued to the trustees of a fund established by employer members of a trade association, or by a trade association maintained by contributions of such members for the sole benefit of their employees or, by one employer, or by two or more employers in the same industry, or by an association of employers in the same industry, or by one or more labor unions, or by one or more employers and one or more labor unions, or by an association of employers and one or more labor unions, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees either: (a) wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both; or (b) partly from such funds and partly from funds contributed by either all of the insured persons or by one or more classes thereof. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured persons specifically for their insurance.

A policy on which part of the premium is to be derived from funds contributed by all of the insured persons may be placed in force only if at least 75 percent of the then eligible employees of any employer unit participating in the trust, or 75 percent of the then eligible members of any participating union if no employer unit is participating in the trust, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons must insure all eligible persons. A policy on which part of the premium is to be derived from funds contributed by one or more classes of insured persons but not from

all the insured persons, must insure all eligible persons from whom no contributions are required and must extend insurance to each class from whom contributions are required when 75 percent of the then eligible persons of any such class elect to make the required contributions. Any eligible person as to whom evidence of individual insurability is not satisfactory to the insurer shall be excluded.

(c) The policy must cover at the date of issue at least 50 persons.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection by the insured persons or by the trustees, employers or unions.

Such insurance shall be issued with or without medical examination. For the purpose of this section the word "industry" shall include licensed professions, such as medicine, dentistry, pharmacy, law and accountancy.

SEC. 2. Section 10270.5 of the Insurance Code is amended to read:

10270.5. Group disability insurance is that form of disability insurance which conforms to all of the following conditions:

(a) Written under a master policy,

(1) Issued either to the federal or state government, or to any federal or state agency, political subdivision or district, or to any public, governmental, or municipal corporation, or to any unit, agency or department thereof, or to any corporation, copartnership or individual employer, or to the trustee of any association of employers, offering insurance to all the employees of any such employer or of the employer members of such association or to all of any class or classes thereof determined by conditions pertaining to employment and covering not less than 10 such employees or such employees together with their dependents or spouses for amounts of insurance based upon some plan which will preclude individual selection by the employee as to the amount of his insurance coverage thereunder; or

(2) Issued to a principal eligible to have issued to him a policy of group life insurance under the provisions of Section 10203.7 and insuring not less than 10 agents as defined in that section and eligible thereunder to be insured, or such agents together with their dependents or spouses; or

(3) Issued to any association having a constitution and bylaws and formed and continuously maintained in good faith for purposes other than that of obtaining insurance, offering insurance to all the eligible members, or class of members, of such association and covering not less than 10 such members or such members together with their dependents or spouses and not less than 25 percent of all eligible members, or class of members, for amounts of insurance based upon some plan which will preclude individual selection by the member as to the amount of his insurance coverage thereunder. If the master policy is to be issued to cover members of labor unions, it may be issued to more than one such union; or

(4) Issued to any trustees eligible to have issued to them a policy

of group life insurance under the provisions of Section 10202.8 and insuring not less than 10 employees or members eligible thereunder to be insured or such employees or members together with their dependents or spouses; or

(5) Issued to a school district or districts or to the governing board of any school district or districts or to a private or parochial school or schools or to the governing board or person in charge of the operation of any private or parochial school or schools, insuring not less than 50 pupils of the school or district and providing benefits to pupils or persons responsible for their support for death or dismemberment resulting from accident or for hospital, medical and surgical expenses resulting from accident to such pupils while they are in or on buildings or premises of the schools or districts during the time such pupils are required to be therein or thereon by reason of their attendance upon a college or a regular day school or any regular day school of a school district or districts or while being transported by the school or schools or district or districts to and from school or other place of instruction or while at any other place as an incident to school sponsored activities and while being transported to, from and between such places; and under which

(b) Transmission or collection of all premiums or premium contributions shall be performed by the policyholder, except where the policy specifies the persons other than the policyholder by whom such transmission or collection shall be made, and in one of the following situations:

(1) If such policy covers the employees of more than one employer, the insurer may collect premium contributions from individual employers whose employees are insured or may assist the policyholder in making such collections. If the employees of more than 100 such employers are covered under such policy, it shall state as a separate part of the premium to be charged for the policy the amount to be charged by the insurer for such collection.

(2) If the policy covers a group of governmental employees and the governmental unit paying such employees will not transmit their premium contribution after payroll deduction, the insurer may collect from the individual employees. If more than 100 such employees are covered under such policy, it shall state as a separate part of the premium to be charged for the policy the amount to be charged by the insurer for such collection.

(3) If individual members of the group make payment of their share of the premium contribution to the insurer with or without billing or solicitation by the insurer during a period of temporary absence from active work of not exceeding 90 days, such payment may be received without the necessity of any separately stated charge by the insurer.

(4) If the policy covers the members of an association, the insurer may collect premium contributions from individual members or may assist the policyholder in making such collections. If more than 100 such members are covered under such policy, it shall state as a part

of the premium to be charged for the policy the amount to be charged by the insurer for such collection.

(c) There is issued and delivered in accordance with the policy provision required by subsection (b) of Section 10270.6 an individual certificate setting forth the benefits and the exceptions under, and referring to, the master policy under which the certificate is issued.

Such certificates are not subject to the provisions of this chapter relating to the master policy, but the forms thereof shall be submitted to the commissioner for his approval and shall not be issued without such approval of such forms in the manner provided in the case of the master policy.

CHAPTER 870

An act to add Sections 3135 and 3145.5 to, and to repeal Section 3149 of, the Business and Professions Code, relating to optometry.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983.]

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

SECTION 1. Section 3135 is added to the Business and Professions Code, to read:

3135. (a) The board may establish a system for the issuance of citations, and the assessment of administrative fines, as deemed appropriate by the board, where a licensee is in violation of the provisions specified in subdivision (e).

(b) The system shall contain the following provisions:

(1) Citations may be issued by investigators. Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Administrative fines shall be assessed only by the board, or the executive officer, where the board has delegated such authority to the officer, and shall not be assessed by an investigator.

(3) The maximum amount of the fine shall not exceed two thousand five hundred dollars ($2,500) per day per violation. The board shall give due consideration to the appropriateness of the amount of the fine with respect to such factors as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, such hearing shall be requested by written notice to the board within 20 days of the issuance of the citation or assessment. Where a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the

violation charged. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid pursuant to this subdivision, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of this chapter.

(d) Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Fines assessed pursuant to this section shall be assessed in accordance with the following:

(1) Violation of subdivision (a) or (c) of Section 651: not less than one thousand dollars ($1,000) or more than two thousand five hundred dollars ($2,500) per day per violation.

(2) Violation of Section 3099 or 3100: not less than five hundred dollars ($500) or more than one thousand dollars ($1,000) per day per violation.

(3) Violation of Section 3125 or 3129: not less than one thousand dollars ($1,000) or more than two thousand five hundred dollars ($2,500) per day per violation.

SEC. 2. Section 3145.5 is added to the Business and Professions Code, to read:

3145.5. Administrative fines collected pursuant to Section 3135 shall be deposited in the State Optometry Fund. It is the legislative intent that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.

SEC. 3. Section 3149 of the Business and Professions Code is repealed.

CHAPTER 871

An act to amend Sections 20560.2 and 24253 of, and to add Sections 24504.1, 24675.1, 24955.1, 25035.5, 25209.1, 25213.1, 25330.1, and 25333.5 to, the Water Code, relating to irrigation districts.

[Approved by Governor September 15, 1983 Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 20560.2 of the Water Code is amended to read:

20560.2. In the case of any district described in Section 20560.1, the district shall give notice to the California Debt Advisory Commission, at least 30 days prior to the proposed sale date, of the proposed sale of any evidence of indebtedness issued to provide financing of any works of the district described in Section 20560.1. The notice shall include the information required by subdivision (h) of Section 8855 of the Government Code. Failure to give this notice shall render the sale invalid. The California Debt Advisory Commission may waive the 30-day notice period upon application by the district.

In carrying out the purpose of this section, the California Debt Advisory Commission may charge fees payable solely from the proceeds of the sale of the debt issue in an amount equal to one-fortieth of 1 percent of the principal amount of the issue, but not to exceed five thousand dollars ($5,000) for any one issue.

The bonds shall be legal investments for all trust funds, for the funds of all insurance companies, commercial banks, savings banks, trust companies, the state school funds, and for any funds which may be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state.

SEC. 2. Section 24253 of the Water Code is amended to read:

24253. If the largest payment to be made under any one lease or contract for any property exceeds in any year an amount equal to one-fourth of 1 percent of the total valuation of the land in the district according to the assessment next equalized before the making of the lease or contract, the lease or contract shall not be valid unless either:

1. The district has appropriate funds on hand at the time the lease or contract is made, sufficient to meet all payments to be made thereunder and in excess of the district's normal requirements for the period in which the payments are to be made; or,

2. Unless a particular purpose or emergency assessment sufficient to meet all of the principal payments to become due under the lease or contract is authorized; or,

3. The lease or contract is approved by the State Treasurer; provided, however, that this section shall not be applicable to any district described in Section 20560.1.

SEC. 3. Section 24504.1 is added to the Water Code, to read:

24504.1. In the case of any district described in Section 20560.1 with respect to construction bonds issued for purposes of financing the works described in that section, if money is not available in the fund designated for the payment of any matured bond or interest coupon of the district payable solely from revenues, it shall draw

interest at the rate borne by the bond or interest coupon from the date of its presentation for payment until notice is given that funds are available for its payment.

SEC. 4. Section 24675.1 is added to the Water Code, to read:

24675.1. Any district described in Section 20560.1 may issue notes or other evidences of indebtedness pursuant to Section 24675 to finance any works or facilities for the generation, transmission, distribution, or sale of electric power, except for preliminary or development work on the Tuolumne River or its tributaries above the New Don Pedro Reservoir, if bonds have already been approved prior to the issuance of the notes or evidences of indebtedness by a vote of the electorate pursuant to Section 21933 to finance the works or facilities. In no event shall the proceeds of any notes or other evidences of indebtedness issued pursuant to this section be issued for any purpose other than those authorized by the vote of the electorate, and in no event shall notes or other evidences of indebtedness issued for any purpose under this section, including bonds issued for the same purpose, exceed the amounts of bonds and notes or other evidences of indebtedness authorized by vote of the electorate for that purpose.

The limitation on outstanding notes or other evidences of indebtedness contained in Section 24675 shall not apply to notes or other evidences of indebtedness issued under this section.

SEC. 5. Section 24955.1 is added to the Water Code, to read:

24955.1. In the case of any district described in Section 20560.1 with respect to construction bonds issued for purposes of financing the works described in that section, the estimate may also include a sum sufficient to pay the interest on the proposed constuction bonds for 10 years or less.

SEC. 6. Section 25035.5 is added to the Water Code, to read:

25035.5. Notwithstanding any other provision of this division requiring any election, any district described in Section 20560.1 may issue refunding bonds for the purpose of refunding any or all of the outstanding bonds of the district, even if the principal amount of the refunding bonds is greater than the principal amount of the bonds being refunded, without the necessity of calling and holding an election in the district if the issuance of the refunding bonds results in a reduction in the total remaining interest and principal payments on bonds of the district. In no event shall the proceeds of any refunding bonds issued pursuant to this section be used for purposes other than to refund outstanding bonds of the district or for purposes other than those for which the refunded bonds were authorized.

SEC. 7. Section 25209.1 is added to the Water Code, to read:

25209.1. In the case of any district described in Section 20560.1, notwithstanding any other provision of this division, the interest on any bonds of the district payable solely from revenue issued for purposes of financing works of the district for the generation, transmission, distribution, or sale of electric power shall be payable at least semiannually on the dates designated by the board.

SEC. 8. Section 25213.1 is added to the Water Code, to read:

25213.1. In the case of any district described in Section 20560.1, notwithstanding any other provision of this division, each principal payment, other than payments of principal upon optional redemption, on any bonds of the district payable solely from revenue issued for purposes of financing works of the district for the generation, transmission, distribution, or sale of electric power shall be payable on one of the dates designated by the board pursuant to Section 25209.1 for payment of interest on the bonds.

SEC. 9. Section 25330.1 is added to the Water Code, to read:

25330.1. In the case of any district described in Section 20560.1 with respect to construction bonds issued for purposes of financing the works described in that section, notwithstanding Section 25327, the board shall give notice of sale of any bonds payable solely from revenue which are to be sold at public sale by publication in a newspaper of general circulation in the office county not less than five days prior to the date of sale in the manner as the board may prescribe. Notwithstanding Section 25328, the notice shall state that sealed bids for the purchase of the bonds will be received at the place specified for that receipt, which need not be at the district office, until the day and hour specified by the board.

Notwithstanding Section 25329, at the time specified, the bids for the bonds shall be opened by the board or, if so determined by the board, shall be opened by an authorized member or officer of the board and referred to the board.

Notwithstanding Section 25330, a bid for the bonds need not be accompanied by a certified check for at least 2 percent of the amount of the bid if so determined by the board of the district, but no bid shall be accepted which is not accompanied by a certified or cashier's check for at least 1 percent of the amount of the bid as determined by the board.

SEC. 10. Section 25333.5 is added to the Water Code, to read:

25333.5. In the case of any district described in Section 20560.1 with respect to construction bonds issued for purposes of financing the works described in that section or bonds issued to refund those bonds, notwithstanding any other provision of this division, the board may determine by resolution entered upon the minutes that a negotiated sale of any bonds of the district payable solely from revenue will be in the best interest of the district, in which case the bonds may be sold at a negotiated sale on such terms as may be approved by the board.

CHAPTER 872

An act to amend, repeal, and add Section 21080 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983]

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

SECTION 1. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division does not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, includes the

environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games other than an Olympic shooting range. However, no shooting range shall be constructed for use in connection with an Olympic games unless, upon consideration of the matter, the board of supervisors of the county in whose unincorporated area the shooting range is proposed to be located, or the city council of the city in which the shooting range is proposed to be located, whichever is applicable, expressly finds that it does not threaten significant damage to endangered species or inhibit access to other recreational facilities.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation

improvement program or the state transportation improvement program.

(15) Any project, or portion thereof, located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect.

(d) This section shall remain in effect only until August 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before August 1, 1984, deletes or extends that date.

SEC. 2. Section 21080 is added to the Public Resources Code, to read:

21080. (a) Except as otherwise provided in this division, this division applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division does not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been

proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or

commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project, or portion thereof, located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect.

(d) This section shall become operative on August 1, 1984.

SEC. 3. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division does not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games other than an Olympic shooting range. However, no shooting range shall be constructed for use in connection with an Olympic games unless, upon consideration of the matter, the board of supervisors of the county in whose unincorporated area the shooting range is proposed to be located, or the city council of the city in which the shooting range is proposed to be located, whichever is applicable, expressly finds that it does not threaten significant damage to endangered species or inhibit access to other recreational facilities.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects necessary to maintain service within

existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project, or portion thereof, located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the

commission may require the applicant to submit information regarding energy requirements.

(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

(d) This section shall remain in effect only until August 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before August 1, 1984, deletes or extends that date.

SEC. 4. Section 21080 is added to the Public Resources Code, to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of

equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public

mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

(d) This section shall become operative on August 1, 1984.

SEC. 5. Sections 3 and 4 of this bill incorporate amendments to Section 21080 of the Public Resources Code proposed by both this bill and AB 1462. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) each bill amends Section 21080 of the Public Resources Code, and (3) this bill is enacted after AB 1462, in which case Section 21080 of the Public Resources Code, as amended

by Section 1 of this bill, shall remain operative only until the operative date of AB 1462, at which time Section 3 of this bill shall become operative and Section 2 of this bill shall not become operative.

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:

In order that shooting range facilities necessary for the 1984 Olympic games may be constructed prior to the hosting and staging of those games in the summer of 1984, it is necessary that this act take effect immediately.

CHAPTER 873

An act to add and repeal Section 17959.3 of the Health and Safety Code, relating to building regulations.

[Approved by Governor September 16, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 17959.3 is added to the Health and Safety Code, to read:

17959.3. (a) It is the intent of the Legislature to encourage the use of passive solar energy design. The Legislature recognizes that building code regulations with regard to natural light and ventilation standards have to be modified to permit existing buildings to be retrofitted with passive solar energy.

(b) Notwithstanding Section 17922, any city or county may by ordinance or regulation permit windows required for light and ventilation of habitable rooms in dwellings to open into areas provided with natural light and ventilation which are designed and built to act as passive solar energy collectors.

(c) This section shall become inoperative on the date that the building code regulations, as modified to conform to subdivisions (a) and (b) and published in Title 24 (commencing with Section 18901) of the California Administrative Code, become effective, and as of the following January 1 this section is repealed, unless a later enacted statute which becomes effective on or before that date, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 874

An act to amend Sections 11340 and 11340.1 of, and to add Sections 11342.01 and 11346.14 to, the Government Code, relating to state administrative regulations.

[Approved by Governor September 16, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 11340 of the Government Code is amended to read:

11340. The Legislature finds and declares as follows:

(a) There has been an unprecedented growth in the number of administrative regulations in recent years.

(b) The language of many regulations is frequently unclear and unnecessarily complex, even when the complicated and technical nature of the subject matter is taken into account. The language is often confusing to the persons who must comply with the regulations.

(c) Substantial time and public funds have been spent in adopting regulations, the necessity for which has not been established.

(d) The imposition of prescriptive standards upon private persons and entities through regulations where the establishment of performance standards could reasonably be expected to produce the same result has placed an unnecessary burden on California citizens and discouraged innovation, research, and development of improved means of achieving desirable social goals.

(e) There exists no central office in state government with the power and duty to review regulations to ensure that they are written in a comprehensible manner, are authorized by statute and are consistent with other law.

(f) Correcting the problems that have been caused by the unprecedented growth of regulations in California requires the direct involvement of the Legislature as well as that of the executive branch of state government.

SEC. 2. Section 11340.1 of the Government Code is amended to read:

11340.1. The Legislature therefore declares that it is in the public interest to establish an Office of Administrative Law which shall be charged with the orderly review of adopted regulations. It is the intent of the Legislature that the purpose of such review shall be to reduce the number of administrative regulations and to improve the quality of those regulations which are adopted. It is the intent of the Legislature that agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be

as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process. It is the intent of the Legislature that neither the Office of Administrative Law nor the court should substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations. It is the intent of the Legislature that while the Office of Administrative Law will be part of the executive branch of state government, that the office work closely with, and upon request report directly to, the Legislature in order to accomplish regulatory reform in California.

SEC. 3. Section 11342.01 is added to the Government Code, to read:

11342.01. In addition to the provisions of Section 11342, as used in this chapter, unless otherwise specifically indicated:

(a) "Performance standard" means a regulation that describes an objective with the criteria stated for achieving the objective.

(b) "Prescriptive standard" means a regulation that specifies the sole means of compliance with a performance standard by specific actions, measurements, or other quantifiable means.

SEC. 4. Section 11346.14 is added to the Government Code, to read:

11346.14. The initial statement required by Section 11346.7 shall also include, but not be limited to, the following:

(a) Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes such mandates or prescriptive standards are required.

(b) A description of the alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives. In the case of a regulation which would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

Any statutory reference to Section 11346.7 shall be construed to also be a reference to this section.

CHAPTER 875

An act to amend Section 118 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 16, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 118 of the Streets and Highways Code is amended to read:

118. Whenever the department determines that any real property or interest therein, previously or hereafter acquired by the state for highway purposes, is no longer necessary for those purposes, the department may sell, contract to sell, sell by trust deed, or exchange the real property or interest therein in the manner and upon terms, standards, and conditions established by the commission. The payment period in any contract of sale or sale by trust deed shall not extend longer than 10 years from the time the contract of sale or trust deed is executed, and any transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price, except as follows:

In the case of unimproved real property sold or exchanged for the purpose of housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the payment period may not exceed 40 years and the downpayment shall be at least 5 percent of the purchase price. All contracts of sale or sales by trust deed, for the purpose of housing for persons and families of low or moderate income shall bear interest. The rate of interest for any such contract or sale shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately preceding the year in which the payment is made. The contract of sale and sales by trust deeds shall not be utilized if the proposed development or sale qualifies for financing from other sources and if the financing makes feasible the provision of low- and moderate-income housing.

Any conveyance under this section shall be approved by the commission and shall be executed on behalf of the state by the director and the purchase price shall be paid into the State Treasury to the credit of any fund, available to the department for highway purposes, which the commission designates.

Any such real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein needed for state highway purposes.

CHAPTER 876

An act to add Sections 12541, 12542, 12543, 12544, 12545, 12546, 12547, and 12548 to the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 16, 1983. Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 12541 is added to the Business and Professions Code, to read:

12541. After completing servicing which results in a correct commercial weighing or measuring device, except as provided in Section 12543, a registrant or enrollee may place the device into service or remove an "out of order" notice from a device and place it into service.

SEC. 2. Section 12542 is added to the Business and Professions Code, to read:

12542. Registration by the director constitutes authorization by the county sealers to remove "out of order" notices and to place devices into service.

SEC. 3. Section 12543 is added to the Business and Professions Code, to read:

12543. A county sealer may, within his or her county, pursuant to the notice and hearing provisions contained in Section 12544, suspend the authorization of a registrant or enrollee to place devices into service, or to remove "out of order" notices, in the event the registrant or enrollee violates any provisions of this division.

SEC. 4. Section 12544 is added to the Business and Professions Code, to read:

12544. (a) A county sealer intending to suspend the authorization of a registrant or enrollee shall notify the registrant in writing of the following conditions:

(1) The alleged violations to be used as the basis for suspension.

(2) The proposed duration of the suspension.

(3) The date the suspension is to begin which may be not sooner than 20 days after the notice is mailed.

(4) The number of enrollees to be affected by the suspension.

(5) The fact that the registrant or enrollee shall be given the opportunity for an investigational hearing prior to the suspension.

(6) The fact that the registrant or enrollee may be represented by legal counsel.

(7) The fact that the registrant or enrollee may appeal to the director before imposition of a suspension.

(b) A copy of the notice to the registrant shall be immediately forwarded to the Division of Measurement Standards.

(c) The division may, as a result of the investigative hearing, declare the suspension to be effective in additional counties.

SEC. 5. Section 12545 is added to the Business and Professions Code, to read:

12545. The registrant may be suspended for the actions of his or her enrolled repair employees in violation of this division.

SEC. 6. Section 12546 is added to the Business and Professions Code, to read:

12546. (a) If the registrant is a corporation, partnership, or other business entity, other than a natural person, the registrant shall

designate one or more natural persons as its agent to act on its behalf in all matters relating to the registration.

(b) A registrant who is a natural person shall exercise active continuing responsibility for day-to-day operations. However, that registrant may designate one or more natural persons to act as agent in the registrant's behalf at any time that the registrant is not available to actively supervise the operations of the business.

SEC. 7. Section 12547 is added to the Business and Professions Code, to read:

12547. Each registrant shall notify the county sealer within 24 hours of each servicing involving the adjustment or repair of a commercial device or the placing or replacing into service of a commercial device. The notice shall be postmarked within the 24-hour period following the service.

SEC. 8. Section 12548 is added to the Business and Professions Code, to read:

12548. Each registrant shall identify his or her work on each device by applying an adhesive tag or label. The adhesive tag or label shall show the name, identification number, and business telephone number of the registrant, and the date. Any security seal required pursuant to Section 12107 shall show the identification number of the registrant and the year.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 877

An act to amend Section 10605 of the Health and Safety Code, and to amend Sections 18966, 18967, 18968, and 18969 of, to amend and renumber Section 18970 of, and to add Section 18970 to, the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 16, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 10605 of the Health and Safety Code is amended to read:

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

(b) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven dollar ($7) fee shall be exempt from subdivision (c) and shall be paid to either a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) 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. 2. Section 18966 of the Welfare and Institutions Code is amended to read:

18966. Whenever a county board of supervisors designates a commission pursuant to Section 18965, the board of supervisors shall establish a county children's trust fund. The children's trust fund shall consist of the fees for birth certificates, collected pursuant to Section 10605 of the Health and Safety Code, grants, gifts, or bequests from private sources to be used for child abuse and neglect prevention and intervention programs, any funds appropriated by local governmental entities to the trust fund, and any funds appropriated to the county for the trust fund by the Legislature. The local registrar or county recorder may, however, retain a percentage, not to exceed 10 percent, of the surcharge collectible pursuant to subdivision (b) of Section 10605 of the Health and Safety Code, in order to defray the costs of collection.

SEC. 3. Section 18967 of the Welfare and Institutions Code is amended to read:

18967. Money in the children's trust fund of each county shall be used to fund child abuse and neglect prevention and intervention programs operated by private nonprofit organizations. The designated commission shall establish criteria for determining those programs which shall receive funding. The commission shall accept all program proposals, shall prioritize these proposals, and shall make recommendations to the board of supervisors as to those proposals which the commission feels should receive funding. The board of supervisors shall make the final decision as to which programs shall be funded. The county shall use no more than 5 percent of the amounts in the trust fund for administrative costs.

SEC. 4. Section 18968 of the Welfare and Institutions Code is amended to read:

18968. In any county where the board of supervisors does not designate a commission to carry out the purposes of this article, pursuant to Section 18965, except for a percentage of the receipts necessary for purposes of collection, the amount collected for the surcharge upon birth certificates pursuant to Section 10605 of the

Health and Safety Code shall be transferred by the local registrar or county recorder to the Treasurer for deposit in the State Children's Trust Fund.

SEC. 5. Section 18969 of the Welfare and Institutions Code is amended to read:

18969. There is hereby created in the State Treasury a fund which shall be known as the State Children's Trust Fund. The fund shall consist of funds received from a county pursuant to Section 18968, funds collected by the state pursuant to subdivision (b) of Section 10605 of the Health and Safety Code, grants, gifts, or bequests made to the state from private sources to be used for child abuse and neglect prevention and money appropriated to the fund for this purpose by the Legislature. The State Registrar may retain a percentage of the surcharge collected pursuant to subdivision (b) of Section 10605 of the Health and Safety Code, not to exceed 10 percent, in order to defray the costs of collection. Money in the State Children's Trust Fund shall be appropriated to the State Department of Social Services for the purpose of funding child abuse and neglect prevention and intervention programs as provided by the Legislature in the annual Budget Act. The department shall use no more than 5 percent of the funds appropriated pursuant to this section for administrative costs.

SEC. 6. Section 18970 of the Welfare and Institutions Code is amended and renumbered to read:

18971. Priority for funds transferred to the State Children's Trust Fund pursuant to Section 18968 shall be given to funding child abuse and neglect prevention and intervention programs operated by private nonprofit organizations in the county where the funds originated, and where the county board of supervisors has not designated a commission pursuant to Section 18965 and has not established a county children's trust fund pursuant to Section 18966. The department may allow the funds for a small county to accumulate to a usable amount, or fund regional programs serving several small counties. The department shall establish criteria for determining which programs shall be funded. Applicants for funding shall submit proposals to the department in response to a request for proposals. If there is no acceptable response to the department's requests for proposals from private nonprofit organizations in a county, then the department may use the funds from that county pursuant to Section 18970.

SEC. 7. Section 18970 is added to the Welfare and Institutions Code, to read:

18970. The department may use up to 50 percent of the funds appropriated to the State Children's Trust Fund pursuant to Section 18971 for innovative child abuse and neglect prevention and intervention programs, or evaluation research or dissemination of information concerning existing program models. The department shall expend funds appropriated to it pursuant to Section 18969 for innovative local child abuse and neglect prevention and intervention

programs operated by private nonprofit organizations. Funds may also be used for evaluation research or dissemination of information concerning existing program models.

CHAPTER 878

An act to amend Section 2080.4 of the Civil Code, and to add Section 537g to the Penal Code, relating to property.

[Approved by Governor September 16, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 2080.4 of the Civil Code is amended to read:

2080.4. Notwithstanding the provisions of Section 2080.3 or Section 2080.6, the legislative body of any city, city and county, or county may provide by ordinance for the care, restitution, sale or destruction of unclaimed property in the possession of the police department of such city or city and county or of the sheriff of such county. Any city, city and county, or county adopting such an ordinance shall provide therein (1) that such unclaimed property shall be held by the police department or sheriff for a period of at least three months, and (2) that thereafter such property will be sold at public auction to the highest bidder, with notice of such sale being given by the chief of police or sheriff at least five days before the time fixed therefor by publication once in a newspaper of general circulation published in the county, or that thereafter such property will be transferred to the local government purchasing and stores agency or other similar agency for sale to the public at public auction. If such property is transferred to a county purchasing agent it may be sold in the manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property. If property is transferred to the local government purchasing and stores agency or other similar agency pursuant to this section, such property shall not be redeemable by the owner or other person entitled to possession. If the local government purchasing and stores agency or other similar agency determines that any such property transferred to it for sale is needed for a public use, such property may be retained by the agency and need not be sold.

SEC. 2. Section 537g is added to the Penal Code, to read:

537g. (a) Unless otherwise provided by law, any person who knowingly removes, defaces, covers, alters or destroys a National Crime Information Center owner identification number from the personal property of another without permission is guilty of a misdemeanor punishable by a fine not to exceed four hundred dollars ($400), imprisonment in the county jail not to exceed one

year, or both.

(b) This section shall not apply to any action taken by an authorized person to dispose of property pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code or pursuant to Chapter 12 (commencing with Section 1407) of Title 10 of Part 2 of this code.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 879

An act relating to county mental health audit settlements.

[Approved by Governor September 18, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. (a) The Legislature recognizes that claims resulting from state-mandated local costs relating to county mental health audit settlements under Chapter 1061 of the Statutes of 1973 which are approved by the State Board of Control are a legitimate debt of the state which shall be payable in future fiscal years.

(b) It is the intent of the Legislature that the debts described in subdivision (a) be paid commencing with the 1984–85 Budget Act.

CHAPTER 880

An act to add Section 51230.1 to, and to add and repeal Section 51256 of, the Government Code, relating to agricultural land.

[Approved by Governor September 18, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 51230.1 is added to the Government Code, to read:

51230.1. (a) Nothing contained in this chapter shall prevent the transfer of ownership from one immediate family member to another of a portion of land which is currently designated as an

agricultural preserve in accordance with the provisions of this chapter, if both of the following conditions are satisfied:

(1) The parcel transferred conforms to the local zoning and land division ordinances.

(2) A written agreement between the landowner and the immediate family member transferring land which is currently designated as an agricultural preserve to be operated under joint management of the agreeing parties for the duration of the terms and conditions as they relate to land as defined by this chapter.

(b) A transfer of ownership described in subdivision (a) shall have no effect on any contract executed pursuant to Article 3 (commencing with Section 51240) covering land of which a portion was the subject of that transfer. The portion so transferred shall remain subject to that contract.

SEC. 2. Section 51256 is added to the Government Code, to read:

51256. (a) Notwithstanding any other provision of this chapter, a city or county, upon petition by a landowner, may enter into an agreement to rescind a contract in order to simultaneously enter into a new contract on presently uncontracted land if the city or county makes all of the following findings:

(1) The uncontracted land is of equal or greater value than the land subject to the contract being rescinded, based on the factors specified in Section 423 of the Revenue and Taxation Code.

(2) The uncontracted land is of equal or greater size than the land subject to the contract being rescinded and will be used for a similar or more productive agricultural use.

(3) The land subject to the contract being rescinded is proposed for an alternative use which is consistent with the applicable provisions of the current general plan, and the general plan designation of that land has been changed by amendment to, or the adoption of, a general plan after the land became subject to that contract.

(4) The uncontracted land is in the same county and within a contiguous body of land in the same ownership, as the land subject to the contract being rescinded, and includes land previously under contract and still in agricultural use upon which cancellation was approved and cancellation fees paid prior to 1974.

(b) A landowner may submit a petition to the city or county requesting an agreement pursuant to this section. The city or county may impose a fee upon the landowner in order to defray its administrative costs. The landowner shall transmit a copy of the petition to the Secretary of Resources. The petition shall be accompanied by a proposal for a specified alternative use of the land upon which contracts are proposed to be rescinded, together with any other information the city or county may require to make the findings required pursuant to this section. Upon making these findings, the city or county may approve the agreement, which shall be recorded in the manner provided for certificates of tentative cancellation specified in Section 51283.4. Rescission of any contract

shall not occur until any conditions and contingencies specified in the agreement shall have been satisfied, including obtaining approvals necessary to commence the project as determined in the agreement.

(c) In addition, no contract shall be rescinded pursuant to this section unless a notice of nonrenewal has been served by the landowner with respect to the land prior to 1983, or while there are more than five years remaining in the term of the nonrenewed contract. A contract made applicable to uncontracted land pursuant to subdivision (a) shall not be eligible for nonrenewal or cancellation for 10 years from the date of the contract's execution.

(d) The provisions of this section shall be applicable only to cities or counties who offered both contracts and agreements under this act prior to 1969, and landowners who entered into contracts or agreements with those cities or counties prior to 1969.

(e) This section shall remain in effect only until January 1, 1985, and on that date is repealed, unless a later enacted statute which is chaptered before January 1, 1985, deletes or extends that date.

SEC. 3. Notwithstanding subdivision (e) of Section 51256 of the Government Code, the other provisions of that section shall continue to apply to proceedings initiated in compliance with the section before January 1, 1985, and those proceedings shall not be affected by the repeal of the section.

CHAPTER 881

An act to add Section 4026.2 to the Health and Safety Code, relating to health.

[Approved by Governor September 18, 1983. Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 4026.2 is added to the Health and Safety Code, to read:

4026.2. (a) The Legislature finds that the department has complied with subdivision (b) of Section 4026.1 by submitting the plan, "A Program for Detecting and Monitoring Organic Chemical Contaminants in Drinking Water" in November 1981.

(b) Pursuant to the proposed plan, and within three months after the effective date of this section, the department shall do the following:

(1) Conduct an evaluation of each public water system to determine the potential for contamination. This evaluation shall include, but not be limited to:

(A) A review of the historical water quality data of each system to determine possible evidence of degradation.

(B) A review, to be coordinated with the State Water Resources Control Board and the California regional water quality control boards, of past and present waste disposal practices that may potentially affect the respective well water supply.

(C) A review of other organic chemicals used in the water supply area, which have potential health risks and may have the potential for contaminating drinking water supplies because of environmental persistence or resistance to natural degradation under conditions existing in California.

(2) Upon a determination by the department that a public water system is subject to potential contamination, the department shall notify the public water system of the specific contaminants or class of contaminants to be analyzed. The department, when applicable, shall require the public water system to use the Environmental Protection Agency's 13 approved analytical techniques as established under subdivision (h) of Section 304 of the Clean Water Act to qualitatively identify the complete range of contaminants in the same class as the specific contaminant or class of contaminants being analyzed. The department shall begin notifying public water systems within three months after the effective date of this section, notifying first those public water systems with the greater health risks and potential for contaminating drinking water, and shall complete the notification process within 12 months after the effective date of this statute.

(3) Upon notification by the department, the public water system shall prepare a proposed systematic water analysis plan for the contaminants. The proposed plan shall be submitted to the department within 90 days of receipt of the notification. The department shall approve, modify, or return for modification all plans within 30 days of receipt of the water analysis plan.

(4) Following receipt of an approved plan from the department, the public water system shall conduct the water analysis and submit a water analysis report to the department within 90 days, in accordance with the approved plan.

(5) After reviewing the report, the department may, by order, require the public water system to conduct a periodic water analysis in accordance with conditions specified by the department. The water analysis shall be reported on a quarterly basis, unless the department finds that reasonable action requires either more frequent or less frequent analysis.

The report shall be considered a complete report within the meaning of, and for the purposes of, Section 4023.

(c) Public water systems with 200 connections or less shall be exempt from paragraphs (3) and (4) of subdivision (b), until January 1, 1986. Not later than January 1, 1985, the department shall submit to the Legislature a systematic water analysis program for public water systems with 200 connections or less and an identified funding source or sources to fund the program.

SEC. 2. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 882

An act to amend Sections 10012, 10327, and 10335 of, and to add Section 10013.5 to, the Elections Code, relating to elections.

[Approved by Governor September 18, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 10012 of the Elections Code is amended to read:

10012. Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, may prepare a candidate's statement on an appropriate form provided by the clerk. Such statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself; provided, however, that the governing body of the local agency may authorize an increase in the limitations on words for such statement from 200 to 400 words. Such statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Such statement shall be filed in the office of the clerk when his or her nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. Such statement shall be filed in the office of the clerk no later than the 88th day before the election, if it is for an election for which nomination papers are not required to be filed. If a runoff election or general election occurs within 88 days of the primary or first election, the statement shall be filed with the clerk by the third day following the governing body's declaration of the results from the primary or first election. It may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

The clerk shall send to each voter together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing. The clerk shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide that translation from the list of approved Spanish

language translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965, as amended, and may require each candidate filing a statement to pay in advance to the local agency his or her pro rata share as a condition of having his or her statement included in the voter's pamphlet. In the event of overpayment, the clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

Nothing in this section shall be deemed to make any such statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet.

Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement sent to each voter. Such decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his or her representative at the time he or she picks up the nomination papers.

For purposes of this section, and Section 10012.5, the board of supervisors shall be deemed the governing body of judicial elections.

SEC. 2. Section 10013.5 is added to the Elections Code, to read:

10013.5. Not less than 10 calendar days before the clerk submits the official voter's pamphlet referred to in Section 10012 for printing, the clerk shall make a copy of the voter's pamphlet available for public examination in the clerk's office. Any person may obtain a copy of the voter's pamphlet from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the clerk, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the material in voter's pamphlet to be amended or deleted. A peremptory writ of mandate or an injunction shall issue only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the candidate who authored the material in question shall be named as the real party in interest. In the case of the clerk bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the

respondent and the candidate who authored the material in question shall be named as the real party in interest.

SEC. 3. Section 10327 of the Elections Code is amended to read:

10327. The statement of measures submitted to the voters may be abbreviated on the ballot, provided that each and every statement of measures on the ballot is abbreviated. The statement shall contain, where possible, not more than 20 words of each measure to be voted on, followed by the words, "Yes" and "No," or preceded by the words "For" and "Against." Abbreviation of measures to be voted on throughout the state shall be composed by the Attorney General and shall be a condensed statement of the ballot title prepared by him.

SEC. 4. Section 10335 of the Elections Code is amended to read:

10335. The ballot shall contain the same material as to candidates and measures, and shall be printed in the same order as provided for paper ballots, and may be arranged in parallel columns on one or more ballot cards as required, except that the column in which the voter marks his choices may be at the left of the names of candidates and the designation of measures. If there are a greater number of candidates for an office or for a party nomination for an office than the number whose names can be placed on one pair of facing ballot pages, a series of overlaying pages printed only on the same, single side shall be used and the ballot shall be clearly marked to indicate that the list of candidates for such office is continued on the following page or pages. If the names of candidates for such office are not required to be rotated, they shall be rotated by groups of candidates in such manner that the name of each candidate shall appear on each page of the ballot in approximately the same number of precincts as the names of all other candidates. Space shall be provided on the ballot or on a separate write-in ballot to permit voters to write in names not printed on the ballot when authorized by law. The size of the voting square and the spacing of the material may be varied to suit the conditions imposed by the use of ballot cards, provided the size of the type is not reduced below the minimum size requirements set forth in Chapter 2 (commencing with Section 10200). The statement of measure submitted to the voters may be abbreviated if necessary on the ballot, provided that each and every statement of measures on that ballot is abbreviated. Abbreviation of matters to be voted on throughout the state shall be composed by the Attorney General.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 883

An act to add Section 38015 to the Health and Safety Code, and to amend Section 12251 of, to add Section 15150.5 to, and to repeal and add Part 1.5 (commencing with Section 10100) to Division 9 of, the Welfare and Institutions Code, relating to social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1983. Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 38015 is added to the Health and Safety Code, to read:

38015. The State Department of Social Services may advance up to 90 percent of any federal emergency food and shelter funds under Public Law 98-8 which the state appropriates to the department, to counties or local United Way organizations which have contracts with the department for the purpose of providing emergency food and shelter services. Any interest earned on any funds received pursuant to this section by a county, a United Way organization, or the department shall be used for the purpose of emergency food and shelter services.

SEC. 1.5. Part 1.5 (commencing with Section 10100) of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 2. Part 1.5 (commencing with Section 10100) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 1.5. FISCAL PROVISIONS

10100. It is the intent of the Legislature that counties shall continue to provide matching funds for county-administered social services programs as these programs are defined by Sections 12251 and 16501 and other services to be provided in accordance with Section 10102.

Each county's required matching funds for these services during the 1982–83 fiscal year shall be the amount specified in the table below.

Alameda	$2,606,679
Alpine	11,486
Amador	22,121
Butte	292,178
Calaveras	39,016
Colusa	28,351
Contra Costa	2,194,933
Del Norte	45,713
El Dorado	143,819
Fresno	1,120,396

Glenn	38,854
Humboldt	247,140
Imperial	201,429
Inyo	33,491
Kern	889,410
Kings	165,170
Lake	75,482
Lassen	35,757
Los Angeles	17,821,660
Madera	161,116
Marin	357,202
Mariposa	17,177
Mendocino	187,374
Merced	323,784
Modoc	18,936
Mono	14,156
Monterey	494,833
Napa	167,285
Nevada	74,573
Orange	2,037,290
Placer	200,390
Plumas	32,577
Riverside	1,300,518
Sacramento	2,205,919
San Benito	32,690
San Bernardino	1,678,695
San Diego	3,468,683
San Francisco	2,020,293
San Joaquin	1,056,746
San Luis Obispo	211,767
San Mateo	1,208,042
Santa Barbara	470,181
Santa Clara	2,949,481
Santa Cruz	354,732
Shasta	289,394
Sierra	13,279
Siskiyou	60,316
Solano	441,744
Sonoma	582,870
Stanislaus	677,212
Sutter	110,553
Tehama	73,691
Trinity	23,032
Tulare	643,092
Tuolumne	57,921
Ventura	683,828
Yolo	200,201
Yuba	150,938
Grand Total	$51,065,596

Nothing in this section shall be construed to affect any matching requirement established upon each county pursuant to Section 12306.

10101. Nothing in this chapter shall mandate a county share of more than 25 percent of actual county expenditures for each year. The county shares, as specified in Section 10100, shall be increased annually by the percentage cost-of-living increase contained in the Budget Act for county administered social services or shall be 25 percent of expenditures by the county in that year for county administered social services, whichever is less.

10102. The State Department of Social Services shall establish and maintain a plan whereby costs of county administered social services programs will be effectively controlled within the amount annually appropriated for these services. Each county shall utilize least cost services, provided that the quality of services is maintained. Allocations shall be made to each county and shall be limited by, and determined based upon, an allocation plan developed by the State Department of Social Services and approved by the Department of Finance. In administering the plan, the State Department of Social Services shall not allocate funds to cover county cost overruns which result from county failure to meet requirements of the plan.

10103. All federal funds under Title IV-B of the Social Security Act, which are appropriated to the state shall be passed on to the counties, except for those reasonable funds needed to finance a required statewide foster care management information system. In passing on federal funds to the counties, the state shall not require counties to provide matching funds in amounts greater than the amount required of the state by the federal government.

SEC. 3. Section 12251 of the Welfare and Institutions Code is amended to read:

12251. As used in this article, and Article 7 (commencing with Section 12300), the term "social services" includes in-home supportive services, information and referral services, protective services, and out-of-home care services as such services are defined by the department in order to secure maximum federal financial participation. Availability of these services shall be based upon the eligibility criteria set forth by the department and shall include, at a minimum, provision for eligibility based on income and linkage to other public assistance programs. Nothing in this section shall be construed as limiting eligibility for information or referral services, protective services, and children's out-of-home care services on the basis of income and linkage to other public assistance programs, to the extent these services are not presently limited on these bases.

SEC. 4. Section 15150.5 is added to the Welfare and Institutions Code, to read:

15150.5. The director shall develop and implement an allocation formula for state funds and state administered federal funds that

each county is to receive for social services. The director shall seek the advice and assistance of counties in development of this formula. The proposed formula shall become effective not sooner than 30 days after it has been submitted to the chairman of the Joint Legislative Budget Committee. The proposed formula submitted to the chairman shall be accompanied by a statement from the County Supervisors Association of California which expresses the counties' position on the formula.

SEC. 5. The Legislature finds and declares that the enactment of the federal Social Services Block Grant (PL 97-35) has substantially reduced the planning and reporting requirements imposed on state and local agencies. The Legislature further declares that these reductions create an opportunity to repeal those planning and reporting requirements which are no longer needed to comply with federal law.

It is the intent of the Legislature, in enacting Section 1 of this act, to reduce the planning and reporting requirements imposed on state and local agencies to those which are needed to comply with Sections 2004 and 2006 of the federal Social Security Act, as amended by the Social Services Block Grant Act (PL 97-35).

SEC. 6. Sections 1.5 to 5, inclusive, of this act shall become operative on January 1, 1984.

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 the necessity are:

In order to expeditiously disburse emergency food and shelter funds to provide food and shelter services to people in need of these services and to meet the September 30 deadline to disburse these federal funds, it is necessary that this act take effect immediately.

CHAPTER 884

An act to amend Section 668 of, and to add and repeal Sections 656.5 and 656.6 of, the Harbors and Navigation Code, relating to vessels.

[Approved by Governor September 18, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to provide for conclusive determination of the extent of recreational boating accidents, injuries, and deaths resulting from motorboat operators under the influence of alcohol or drugs. Additionally, it is the intent of the Legislature to determine the extent of recreational boating accidents attributable to minors and repeat offenders, and

further, the Legislature intends, by mandating the study specified in Section 656.5 of the Harbors and Navigation Code, to enact such laws as are necessary to enhance safety afloat while using the state's waterways.

SEC. 2. Section 656.5 is added to the Harbors and Navigation Code, to read:

656.5. (a) The director shall cause to be prepared a comprehensive recreational boating accident study conducted on a statewide basis. The study shall contain the elements specified in subdivision (b) and shall involve at least two recreational boating seasons. Upon completion of the study, the director shall make findings and recommendations, and report them to the Legislature on or before January 1, 1986.

(b) The study shall include, but not be limited to, the following elements:

(1) The number and percentage of all motorboat accidents in which the use of alcohol or controlled substances was a factor.

(2) The number and percentage of all motorboat accidents where the operators were under the age of majority.

(3) The number and percentage of all motorboat accidents involving operators who have been previously involved with boating accidents during the preceding five years or have been cited for violations of operational laws under this article.

(c) The department shall report all information from the study to the Legislature with findings and recommendations on the problem of operating motorboats under the influence of alcohol or drugs, the necessity of restricting operation of motorboats by minors, and the effectiveness of testing and convicting offenders who are operating under the influence of alcohol or drugs.

(d) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 3. Section 656.6 is added to the Harbors and Navigation Code, to read:

656.6. (a) The department shall inform individuals and agencies responsible for the reporting of motorboat accidents and violations, of the following requirements:

(1) The requirement that each individual involved in a boating accident shall submit a written accident report, pursuant to the requirements of Section 656.

(2) The requirement that within 10 days after conviction of, or forfeiture of bail by, a person for violation of any statute, regulation, or ordinance relating to the operation, equipment, or registration of vessels, every judge or clerk of court shall submit an abstract of the record of the court, pursuant to Section 670.

(3) The requirement that every peace officer of this state or of any city, county, city and county, or other political subdivision of the state authorized to enforce provisions of this chapter shall submit written reports of boating accidents or casualties, pursuant to Section 6503 of

Title 14 of the California Administrative Code. In addition to the reports required upon the death or disappearance of a person, any peace officer who has probable cause or reasonable suspicion to believe that the accidents, injuries, or deaths resulted from operation of a motorboat while under the influence of an alcoholic beverage or controlled substance, shall immediately prepare and transmit a report, by the quickest means available, to the department.

(b) The department shall inform enforcement agencies authorized to enforce provisions of this chapter of the available field sobriety testing procedures currently accepted and admissible in a court of law.

(c) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 4. Section 668 of the Harbors and Navigation Code is amended to read:

668. (a) Any person who violates any provisions of Section 652, 654, 654.05, 654.06, 655.2, 655.3, 659, or 663.6, or any regulations adopted by the department pursuant thereto, is guilty of a misdemeanor and shall be subject to a fine of not to exceed fifty dollars ($50) or imprisonment in the county jail for not to exceed five days, or both, for each violation.

(b) Any person who violates any provisions of subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars ($100) for each violation.

(c) Except as provided in subdivision (d), any person who violates any provision of Section 652.5, subdivision (a) or (b) of Section 655, Section 656, or subdivision (d) or (e) of Section 658, or any special rules and regulations adopted by the department pursuant to the provisions of subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be subject to a fine of not to exceed five hundred dollars ($500) or imprisonment in the county jail for not to exceed six months, or both, for each violation.

(d) If a person convicted of violating subdivision (a) or (b) of Section 655 has, within the preceding five years, been convicted of any violation of Section 655, the person shall be punished by imprisonment in the county jail for not more than six months or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

(e) Any person who violates subdivision (c) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(f) If any person is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of subdivision (b) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in county jail for not less than five days nor more than one year, and pay a fine of not

less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000). If any person is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of subdivision (c) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in county jail for not less than 90 days nor more than one year, and pay a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(g) In no event shall the court have the power to absolve a person who is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of that section from the obligation of spending the minimum time in confinement as provided in this section, and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under subdivision (b) or (c) of Section 655 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 885

An act to add Sections 20020.9 and 20938 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 18, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 20020.9 is added to the Government Code, to read:

20020.9. "Local policeman" also includes any employee of a

contracting agency which is a city, who is employed in a jail or a detention or correctional facility and having as their primary duty and responsibility the supervision and custody of persons committed to the jail or facility. It shall not include persons employed as clerks, typists, teachers, instructors, or psychologists or to provide food, maintenance, health, or supporting services, even though responsibility for custody and control of persons so committed may be incident to, or imposed in connection with, that service.

This section shall not apply to the employees of any contracting agency nor to any contracting agency unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made pursuant to Section 20461.5 or by express provision in its contract with the board.

SEC. 2. Section 20938 is added to the Government Code, to read:

20938. Notwithstanding any other provision of law, a local member who has elected to receive credit for service by contributing in installments and who has been retired for industrial disability between January 1, 1979, and January 1, 1984, shall be refunded without interest all lump sum payments made within 30 days of retirement on account of the elective service. Other local members may cancel such an election prospectively from the effective date of their retirement for industrial disability.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required or, in the case of contracts made after January 1, 1984, by express provision in the contract making the contracting agency subject to this section. Such an amendment, or contract provision, may provide that this section applies with respect to all of the agency's active and retired local members who retire, or retired, directly from service for such agency without intervening employment.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 886

An act to amend Sections 31453.5, 31459, 31681.8, 31691, 31691.1, 31789.1, 31789.2, 31874, and 31874.3 of, and to add Article 5.5 (commencing with Section 31510) to Chapter 3 of Part 3 of Division 4 of Title 3 of, the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 18, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. It is the intent of the Legislature in enacting this act to provide alternative provisions to preserve the actuarial integrity of the county retirement systems created under the County Employees Retirement Law of 1937, to recognize the fiduciary role of the boards of each affected county retirement system, and to assist in the orderly and equitable disposition of the various county retirement system reserves against deficiencies.

In enacting this act, the Legislature provides for the augmented crediting of interest earnings to various employee, employer and retired member accounts in the retirement fund in an effort to assure that the accounts are in actuarially sound condition in relation to their current liabilities and existing statutory requirements regarding the funding of present unfunded actuarial obligations.

It is also the intent of the Legislature to not disrupt the supplemental benefits currently being provided to county retirees with funds from various retirement system reserves. In providing a limit on contingency reserve accounts created by the added Section 31510.6 of the Government Code, it is the intent of the Legislature that any funds currently in reserve against deficiencies accounts which exceed the maximum prescribed by this act, on the effective date of this act, be transferred to the Supplemental Retiree Benefits Reserve created by the amended Section 31510.8 of the Government Code, to be disbursed at the discretion of the affected county board of retirement for the purpose of providing benefits to present and future retirees and beneficiaries.

SEC. 2. Section 31453.5 of the Government Code is amended to read:

31453.5. Notwithstanding Section 31587, and in accordance with Section 31453 or 31510.1, the board may determine county or district contributions on the basis of a normal contribution rate which shall be computed as a level percentage of compensation which, when applied to the future compensation of the average new member entering the system, together with the required member contributions, will be sufficient to provide for the payment of all prospective benefits of such member. The portion of liability not provided by the normal contribution rate shall be amortized over a

period not to exceed 30 years.

SEC. 3. Section 31459 of the Government Code, as amended by Chapter 534 of the Statutes of 1983, is amended to read:

31459. (a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31510.1, 31510.3, 31510.6, 31528, 31588.1, 31589.1, 31591, and the first paragraph of Section 31592.2, Sections 31592.3, 31594, 31595, 31595.1, 31595.3, 31595.4, 31595.5, 31595.6, 31595.9, 31596, 31596.1, 31603, 31604, 31605, 31607, 31625, and 31784, "board" means board of investment.

(2) Sections 31510, 31510.4, 31510.8, 31522, 31523, 31524, 31525, 31529, 31529.5, 31680, and 31680.1 apply to both the board of retirement and board of investment, and "board" means both "board of retirement" and "board of investment."

(b) In Article 17 (commencing with Section 31880) of this chapter, "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

SEC. 4. Article 5.5 (commencing with Section 31510) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 5.5. Alternative Financial Provisions

31510. This article shall not become operative in any county unless and until it is adopted by resolution of the county board of retirement and the county board of supervisors, whereupon, the following sections shall not be operative as to that county: Sections 31453, 31529.5, 31591, 31592, 31592.2, 31592.3, and 31871.

31510.1. An actuarial valuation shall be made within one year after the date on which any system established under this chapter becomes effective, and thereafter at intervals not to exceed three years. The valuation shall be conducted under the supervision of an enrolled actuary and shall cover the mortality, service, and compensation experience of the members and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund. Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 60 days prior to the beginning of the succeeding fiscal year, recommend to the board of supervisors such changes in the rates of interest, in the rates of contributions of members, in county and district appropriations as are necessary, and appropriate mortality tables. In making recommendations to the board of supervisors, the board shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. No adjustment shall be included in the new rates for time prior to the effective date of the revision. The cost of

actuarial valuations and investigations may, in the sound discretion of the board, be charged against the earnings of the retirement fund.

31510.2. "Actuarial rate" means the interest assumption rate established by the most recent actuarial survey recommended by the board of retirement and adopted by the board of supervisors.

31510.3. "Net earnings" means the earnings of the retirement fund after accounting for any direct investment losses recognized during the year, less the amounts taken from the earnings as specified in subdivisions (a) and (b):

(a) The amounts specified in Sections 31510.1, 31510.4, 31580.2, and 31580.3, if applicable, and subdivisions (b) and (d) of Section 31596, if applicable.

(b) Any reductions from earnings required by Sections 31588.1 and 31589.1, if applicable. Part or all of any amounts required by Sections 31588.1 and 31589.1 may be deducted, at the discretion of the board of retirement, from the Contingency Reserve Account as described in Section 31510.6.

31510.4. Notwithstanding Section 31529, the board may contract for the legal services of an attorney in private practice when the board determines, after consultation with the county counsel, that the county counsel cannot provide the board with legal services due to a conflict of interest or other compelling reason. The compensation of the attorney shall be charged against the earnings of the retirement fund or paid from the county general fund.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

31510.5. Regular interest at the actuarial rate, or at the highest rate possible if net earnings, as defined in Section 31510.3, are not sufficient to credit the full actuarial rate, shall be credited semiannually on June 30 and December 31 to all contributions, reserves, and accounts in the retirement fund, except the Contingency Reserve Account, which have been on deposit for six months immediately prior to such date.

Interest at the actuarial rate, compounded semiannually, shall be used in the calculation of benefits under any mortality table adopted by the board of supervisors. No interest shall be credited to a member's account after the termination of such member's county service, unless the member has elected, in writing, to leave his accumulated contributions in the retirement fund and be granted a deferred retirement allowance, or the surviving spouse of a deceased member or the legally appointed guardian of the member's unmarried children under age 18 has elected to leave a death benefit on deposit as provided for in Section 31781.2.

31510.6. After the semiannual application of Section 31510.5, earnings of the retirement fund in excess of the total interest credited to contributions and reserves shall remain in the fund as a reserve against deficiencies in interest earnings, losses on investments, or payments made pursuant to Section 31588.1 or

31589.1, if applicable.

These funds shall be placed in an account known hereafter as the Contingency Reserve Account. The size of this account shall be determined semiannually by the board but shall not exceed 3 percent of the total assets of the retirement fund.

If, at the end of any semiannual period, the balance of the Contingency Reserve Account falls below 1 percent of system assets, the board shall, by the end of the subsequent semiannual period, provide funds from earnings of fund assets from the subsequent semiannual period, to bring the level of the Contingency Reserve Account to at least 1 percent of system assets.

No funds in the Contingency Reserve Account shall be available for the payment of benefits.

Net earnings remaining after the application of this section shall be applied as provided in Sections 31510.7, 31510.8, and 31510.9.

31510.7. In each county having an agreement prior to January 1, 1983, that a fixed part of the required Article 16.5 (commencing with Section 31870) cost-of-living contributions shall come from excess interest earnings on the fund, after the semiannual application of Sections 31510.5 and 31510.6, the balance of the net earnings, as defined in Section 31510.3, shall be used to pay those contributions.

31510.8. The board shall establish a Supplemental Retiree Benefit Reserve in the retirement system consisting of any amount previously in the reserve against deficiencies, which on the date of adoption of this article, exceeds 3 percent of the assets of the retirement fund, or any lesser amount, as determined by the board. In no event, however, shall the balance of the Contingency Reserve Account be reduced below 1 percent of system assets for this purpose. The Supplemental Retiree Benefit Reserve shall be used only for the benefit of retired members and beneficiaries.

Commencing on the date of adoption of this article, there shall be a semiannual transfer into this reserve of 50 percent of the balance of net earnings, as defined in Section 31510.3, after crediting all accounts pursuant to Section 31510.5, rebuilding the Contingency Reserve Account pursuant to Section 31510.6 and paying the part of the cost-of-living contributions pursuant to Section 31510.7, if applicable.

The distribution of the Supplemental Retiree Benefits Reserve shall be determined by the board.

31510.9. Remaining net earnings, after the sequential application of Sections 31510.5 and 31510.6 and Section 31510.7, if applicable, and Section 31510.8 shall be credited to all contributions, reserves, and accounts in the retirement fund, except the Contingency Reserve Account, in the manner prescribed in Section 31510.5, except that no further interest shall be credited to the Supplemental Retiree Benefit Reserve, established pursuant to Section 31510.8.

SEC. 5. Section 31681.8 of the Government Code, as amended by Chapter 147 of the Statutes of 1983, is amended to read:

31681.8. (a) The board of supervisors in any county under the

County Employees Retirement Law of 1937 may provide, effective on a date determined by the board, for cost-of-living payments, in addition to those payable under Articles 16.5 and 16.6, to members of this system or a superseded system who retired and to their surviving beneficiaries who are receiving allowances under this system, provided the following conditions are met:

(1) On January 1 of the year of adoption or readoption of this section, the accumulations established by Section 31870, 31870.1, or 31870.2, as applicable, shall, for any member, equal or exceed 25 percent in order for that member to be eligible for such cost-of-living payment.

(2) The payments shall be made either quarterly or monthly to those members and survivors eligible for the first payment.

(3) The amount of each payment is equal to the product of a sum determined by the board of supervisors, but not to exceed fifteen dollars ($15) times the member's full years of county service not exceeding 30 years.

(b) The payments made pursuant to this section and Section 31739.5 shall be made only during the lifetimes of the members or their survivors receiving allowances and to no other person.

(c) The payments made pursuant to this section and Section 31739.5 shall not be considered as a part of the monthly retirement allowance, optional death allowance, or annual death allowance, nor shall any such payments be construed as guaranteeing any similar payments in any subsequent year.

(d) Notwithstanding subdivision (a), the payments to beneficiaries of members pursuant to Section 31760.1, 31765.1, 31781.1, or 31785 or to beneficiaries who elected a combined benefit pursuant to Section 31781.3 shall be 60 percent of the payments which otherwise would have been payable under subdivision (a) to the members.

(e) Notwithstanding subdivision (a), the payments to beneficiaries of members who elected optional settlement 3 pursuant to Section 31763 shall be 50 percent of the payments which otherwise would have been payable under subdivision (a) to the member.

(f) This section shall not be operative in any county in any year, unless it is adopted or readopted in any year by the board of supervisors. Any such adoption or readoption in any particular year shall not be construed to require any adoption or readoption in any subsequent year.

Before adoption by the board of supervisors in any year, the cost of the payments authorized by this section and Section 31739.5 shall be determined by a qualified actuary and the board of supervisors shall, with advice of the actuary, provide for the payment of such cost in such manner as to fully fund the benefits on a sound actuarial basis, including use of available funds in the reserves provided in Section 31592.2 with the approval of the retirement board, or an increase in the employer rates of contributions, or a combination of these

sources of payments. This actuarial determination shall be made only upon authorization by the board of supervisors.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

This section 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. 6. Section 31691 of the Government Code is amended to read:

31691. The board of supervisors of any county by ordinance or the governing body of any district under the County Employees Retirement Law may by ordinance or resolution provide for the contribution by the county or district from its funds and not from the retirement fund toward the payment of all or a portion of the premiums on a policy or certificate of life insurance or disability insurance issued by an admitted insurer, or toward the payment of all or part of the consideration for any hospital service or medical service corporation, including any corporation lawfully operating under Section 9201 of the Corporations Code, contract, or for any combination thereof, for the benefit of any member heretofore or hereafter retired or his dependents. At least one of these plans shall include free choice of physician and surgeon.

The benefits provided by this section are in addition to any other benefits provided by this chapter (commencing with Section 31450).

The board of retirement may provide on behalf of a member who has retired or, an eligible surviving spouse who was married to the member for one year prior to the date of retirement of the member or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age or under the age of 22 and full-time students, for the benefits enumerated herein from the earnings of the retirement fund which are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. The board may provide for the benefits enumerated from like sources when the board of supervisors or the governing body of a district has elected to provide these benefits to its active employees, even though they are not provided to those who have retired from the service of the county or district.

Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

SEC. 7. Section 31691.1 of the Government Code is amended to read:

31691.1. In lieu of the benefits prescribed by the last paragraph of Section 31691, the board of retirement may provide on behalf of

a member who has retired or an eligible surviving spouse who was married to the member prior to the date of retirement of the member, or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age or under the age of 22 and full-time students, for an equivalent increase in allowance from the earnings of the retirement fund which are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. Any benefit provided by this section shall be subject to the provisions of Section 31692.

Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

SEC. 8. Section 31789.1 of the Government Code is amended to read:

31789.1. Upon the death of any member after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars ($750).

This section applies to every member who dies after this section becomes operative whether he has retired before or after the operative date or effective date of this section.

Only one death benefit payment shall be paid under this section or under Section 31789, and shall be paid by the system subject to Section 31789 and this section where the member rendered his last active service.

This section shall not become operative in any county until such time as the board of retirement determines that its benefits may be financed from surplus earnings of the retirement fund. Upon this determination by the retirement board, the provisions of this section shall become operative.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

SEC. 9. Section 31789.2 of the Government Code is amend to read:

31789.2. Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate, or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars ($750).

This section applies to every member who dies after this section

becomes operative whether he has retired before or after the operative date or effective date of this section.

The death benefit provided by this section shall be paid in lieu of a payment under Section 31789 or 31789.1 and may be paid in part, from contributions of the county or district in accordance with Section 31789, and in part, from surplus earnings of the retirement system in accordance with Section 31789.1.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in such county and until such time as the board of retirement, by resolution adopted by a majority vote, determines that its portion of the benefits may be financed from surplus earnings of the retirement fund.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510) of this chapter, only that portion of those benefits which is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

SEC. 10. Section 31874 of the Government Code is amended to read:

31874. This article (commencing with Section 31870) may be made applicable in any county on the date specified in the ordinance, or if no such date is specified, on the first day of the month after the effective date of an ordinance adopted by the board of supervisors to this effect, provided that an actuarial survey of the retirement system has been made by the adopting county prior to the passage of said ordinance. No provision of this chapter shall prevent or be construed to prevent the use and expenditure of surplus described in Section 31592.2 to fund any part or all of any increases in allowances otherwise permitted after this article or Article 16.6 (commencing with Section 31875) or both this article and Article 16.6 or any of the provisions of this article or Article 16.6 have been made applicable.

Except in a county of the first class, upon adoption by a county providing increases in allowances pursuant to this article, of Article 5.5 (commencing with Section 31510) of this chapter, only that portion of the increases in allowances which is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

SEC. 11. Section 31874.3 of the Government Code, as amended by Chapter 147 of the Statutes of 1983, is amended to read:

31874.3. (a) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds 3 percent, the board of retirement may provide that all or part of such excess over either 2 percent or 3 percent shall be applied to the retirement allowances, optional death allowances or annual

death allowances increased in Section 31870 or 31870.1. The board shall determine the amount of such excess to be applied and such amount shall not exceed an amount that can be paid from earnings of the retirement fund which are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

Such supplemental increases in excess of the 3-percent increases applied to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870 or 31870.1.

This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870 or 31870.1 applicable in such county.

(b) The board of retirement may, instead of taking action pursuant to subdivision (a), provide supplemental cost-of-living increases, effective on a date to be determined by the board, to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1; provided however, that only those members shall be eligible for this increase whose accumulations established by Section 31870 or 31870.1 shall equal or exceed 25 percent as of January 1 of the year in which the board of retirement adopts an increase hereunder.

The supplemental increases to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870 or 31870.1.

This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870 or 31870.1 applicable in such county.

(c) Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

SEC. 12. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. 13. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 887

An act to amend and repeal Section 637.1 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 18, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 637.1 of the Unemployment Insurance Code is amended to read:

637.1. An individual who is the sole stockholder of a private corporation organized for profit and who is included within the meaning of "employee" pursuant to subdivision (a) of Section 621 may file a statement disclaiming any rights to unemployment compensation benefits or unemployment compensation disability benefits, or both, under this division and both the individual and the corporation shall be exempt from contributions under this division for the disclaimed benefits with respect to any wages paid to the individual by the corporation in the calendar quarter in which the statement is filed, the remainder, if any of the calendar year in which the statement is filed and not less than the two succeeding complete calendar years, and in all subsequent calendar quarters while the statement is in effect. The individual shall be ineligible to receive any benefits under this division which are disclaimed under this section and which are based upon those wages.

This section shall remain in effect only until January 1, 1989, and on that date is repealed.

SEC. 2. The Employment Development Department shall prepare and submit to the Legislature no later than January 1, 1987, a report containing an analysis of the sole stockholders who claimed the exemption provided by Section 637.1 of the Unemployment Insurance Code during the previous three years, and an analysis of the fiscal impact of the exemption on the Unemployment Fund and the Disability Fund. The department shall submit the cost of the report as a budget item during the 1985–86 Regular Session of the Legislature.

CHAPTER 888

An act to amend Sections 1399.62 and 1399.63 of the Health and Safety Code, and to amend Sections 10128.2 and 10128.3 of the Insurance Code, relating to insurance.

[Approved by Governor September 18, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 1399.62 of the Health and Safety Code is amended to read:

1399.62. (a) Every contract containing hospital, medical, or surgical expense benefits or service benefits shall contain a reasonable extension of such benefits upon discontinuance of the contract with respect to employees or dependents who become totally disabled while enrolled under the contract on or after the date this article becomes applicable to such contract and who continue to be totally disabled at the date of discontinuance of the contract.

(b) Every contract providing hospital, medical or surgical expense benefits or service benefits shall be deemed to include a reasonable extension of such benefits upon discontinuance of the contract if it provides benefits for covered services directly relating to the condition causing total disability existing at the time dues payments cease for the employee or dependent and incurred during a period of not less than 12 months thereafter, which period shall not be interrupted by discontinuance of the contract.

That extension of benefits may be terminated at such time as the employee or dependent is no longer totally disabled or at such time as a succeeding carrier may elect to provide replacement coverage to that employee or dependent without limitation as to the disabling condition.

(c) The services provided during any extension of benefits may be subject to all limitations or restrictions contained in the contract.

SEC. 2. Section 1399.63 of the Health and Safety Code is amended to read:

1399.63. (a) Any carrier providing replacement coverage with respect to hospital, medical or surgical expense or service benefits within a period of 60 days from the date of discontinuance of a prior contract or policy providing such hospital, medical or surgical expense or service benefits shall immediately cover all employees and dependents who were validly covered under the previous contract or policy at the date of discontinuance and are within the definitions of eligibility under the succeeding carrier's contract and who would otherwise be eligible for coverage under the succeeding carrier's contract, regardless of any provisions of the contract relating to active full-time employment or hospital confinement or pregnancy. However, with respect to employees or dependents who are totally disabled on the date of discontinuance of the prior carrier's contract or policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 1399.62, or pursuant to subdivision (d) of Section 10128.2 of the Insurance Code, the succeeding carrier is not required to provide benefits for services or expenses directly related to any conditions which caused the total disability.

(b) Except as otherwise provided in subdivision (a), until an employee or dependent entitled to coverage under a succeeding

carrier's contract pursuant to subdivision (a) of this section qualifies for full benefits by meeting all effective date requirements of the succeeding carrier's contract, the level of benefits shall not be lower than the benefits provided under the prior carrier's contract or policy reduced by the amount of benefits paid by the prior carrier. Such employee or dependent shall continue to be covered by the succeeding carrier until the earlier of the following dates:

(1) The date coverage would terminate for an employee or dependent in accordance with the provisions of the succeeding carrier's contract, or

(2) In the case of an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's contract or policy and entitled to an extension of benefits pursuant to subdivision (d) of Section 10128.2 of the Insurance Code or subdivision (b) of Section 1399.62, the date the period of extension of benefits terminates or, if the prior carrier's contract or policy is not subject to this article, the date to which benefits would have been extended had the prior carrier's contract or policy been subject to this article.

(c) Except as otherwise provided in this section, and except to the extent that benefits for the condition would have been reduced or excluded under the prior carrier's contract or policy, no provision in a succeeding carrier's contract of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's contract shall be applied with respect to those employees and dependents validly covered under the prior carrier's contract or policy on the date of discontinuance.

(d) In a situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request, the prior carrier shall furnish a statement of benefits available or pertinent information, sufficient to permit verification of the benefit determination by the succeeding carrier.

SEC. 3. Section 10128.2 of the Insurance Code is amended to read:

10128.2. Every policy containing a life insurance benefit shall contain a reasonable extension of such benefit upon discontinuance of the policy with respect to employees who become totally disabled while insured under the policy on or after the date this article becomes applicable to such policy and who continue to be totally disabled at the date of discontinuance of the policy. Every policy containing a loss of time benefit, a specific indemnity during hospital confinement, or a hospital, medical, or surgical expense benefit shall contain a reasonable extension of such benefits upon discontinuance of the policy with respect to employees or dependents who become totally disabled while insured under the policy on or after the date this article becomes applicable to such policy and who continue to be totally disabled at the date of discontinuance of the policy.

(a) Every policy containing a life insurance benefit which does

not contain a disability benefit provision of any type (e.g. premium waiver extension, extended death benefit in event of total disability, or payment of income for a specified period during total disability), shall be deemed to include a reasonable extension of benefits upon discontinuance of the policy if it provides the totally disabled employee the same rights of conversion to an individual life insurance policy at the time of discontinuance of the policy that such employee would have had if his employment or association membership had terminated on the same date.

The rights of conversion specified above need not be provided with regard to any amount of insurance for which the employee becomes insured under any replacement coverage.

(b) Every policy containing a life insurance benefit which contains a disability benefit provision of any type shall be deemed to include a reasonable extension of benefits upon discontinuance of the policy if it provides:

(1) Such discontinuance does not affect the disability benefit; and

(2) The rights of conversion described in (a) above shall apply to the amount the individual is insured for at the termination of the disability benefit unless the disability benefit is a payment of income for a specified period, in which event the rights of conversion would apply to the amount of life insurance, if any, remaining after the payment of income; and

(3) With respect to any amounts of life insurance provided under the policy to which no disability benefit provision applies, the rights of conversion described in (a) above shall apply.

No extension of life insurance under either a disability benefit or the rights of conversion specified above need be provided with regard to any amount of insurance for which the employee becomes insured under any replacement coverage.

(c) Every policy providing benefits for loss of time or a specific indemnity during hospital confinement, shall be deemed to include a reasonable extension of such benefits upon discontinuance of the policy if such discontinuance does not affect the benefit provided.

(d) Every policy providing hospital, medical or surgical benefits on an expense-incurred or service basis shall be deemed to include a reasonable extension of such benefits upon discontinuance of the policy if it provides benefits for covered expenses directly relating to the condition causing total disability existing at the time premium payments for the employee or dependent cease and incurred during a period of not less than 12 months thereafter, which period shall not be interrupted by discontinuance of the policy.

That extension of benefits may be terminated at such time as the employee or dependent is no longer totally disabled or at such time as a succeeding carrier may elect to provide replacement coverage to that employee or dependent without limitation as to the disabling condition.

(e) The benefits payable during any extension of benefits may be subject to all limitations or restrictions contained in the policy.

SEC. 4. Section 10128.3 of the Insurance Code is amended to read:

10128.3. (a) Any carrier providing replacement coverage with respect to hospital, medical or surgical benefits on an expense-incurred or service basis within a period of 60 days from the date of discontinuance of a prior policy providing such hospital, medical or surgical benefits shall immediately cover all employees and dependents who were validly covered under the previous policy at the date of discontinuance, are within the definitions of eligibility under the succeeding carrier's policy, and who would otherwise be eligible for coverage under the succeeding carrier's policy, regardless of any provisions of the policy relating to active full time employment or hospital confinement or pregnancy. However, with respect to employees or dependents who are totally disabled on the date of discontinuance of the prior carrier's contract or policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 1399.62 of the Health and Safety Code, or pursuant to subdivision (d) of Section 10128.2, the succeeding carrier is not required to provide benefits for services or expenses directly related to any conditions which caused the total disability.

(b) Except as otherwise provided in subdivision (a), until an employee or dependent entitled to coverage under a succeeding carrier's policy pursuant to subdivision (a) of this section qualifies for full benefits by meeting all effective date requirements of the succeeding carrier's policy, the level of benefits shall not be lower than the benefits provided under the prior carrier's policy reduced by the amount of benefits paid by the prior carrier. Such employee or dependent shall continue to be covered by the succeeding carrier until the earlier of the following dates:

(1) The date coverage would terminate for an employee or dependent in accordance with the provisions of the succeeding carrier's policy, or

(2) In the case of an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 1399.62 of the Health and Safety Code, or subdivision (d) of Section 10128.2, the date the period of extension of benefits terminates, or, if the prior carrier's policy is not subject to this article, the date to which benefits would have been extended had the prior carrier's policy been subject to this article.

(c) Except as otherwise provided in this section, and except to the extent that benefits for the condition would have been reduced or excluded under the prior carrier's policy, no provision in a succeeding carrier's policy of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's policy shall be applied with respect to those employees and dependents validly insured under the prior carrier's policy on the date of discontinuance.

(d) In a situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request, the prior carrier shall furnish a statement of benefits available or pertinent information, sufficient to permit verification of the benefit determination by the succeeding carrier.

SEC. 5. This act shall be applicable only to discontinuances and replacements which are initiated pursuant to this article on or after January 1, 1984. Neither the fact of the enactment of this act nor the text of anything contained in it shall be considered to reflect legislative intent concerning, or be used or applied to, the interpretation of, the preexisting law.

CHAPTER 889

An act to amend Section 10851 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 10851 of the Vehicle Code is amended to read:

10851. (a) Any person who drives or takes a vehicle not his own, without the consent of the owner thereof, and with intent either permanently or temporarily to deprive the owner thereof of his or her title to or possession of the vehicle, whether with or without intent to steal the vehicle, or any person who is a party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a public offense and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than one year or in the state prison or by a fine of not more than five thousand dollars ($5,000), or by both the fine and imprisonment.

(b) If the vehicle is (1) an ambulance, as defined in subdivision (a) of Section 165, or (2) a distinctively marked vehicle of a law enforcement agency or fire department, taken while the ambulance or vehicle is on an emergency call, and this fact is known to the person driving or taking, or any person who is party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, the offense is a felony punishable by imprisonment in the state prison for two, three, or four years or by a fine of not more than ten thousand dollars ($10,000), or by both the fine and imprisonment.

(c) In any prosecution for a violation of subdivision (a) or (b), the consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of the owner's consent on a previous occasion to the taking or driving of the vehicle by the same or a different person.

(d) The existence of any fact which makes subdivision (b) applicable shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

CHAPTER 890

An act to amend Section 285.5 of the Health and Safety Code, relating to health care.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 285.5 of the Health and Safety Code is amended to read:

285.5. (a) The state department shall seek any federal waiver or waivers that may be necessary to maximize funds from the federal government including, but not limited to, funds provided under Title 19 of the Social Security Act to provide funds for a full range of preventive perinatal services.

(b) The state department shall, in preparing its budget for submission each year, coordinate all funding sources intended primarily for perinatal care made available through the Budget Act to maximize the delivery of perinatal care services and to avoid duplication of programs and funding.

(c) The state department shall develop and implement a uniform sliding fee schedule for women provided perinatal care through the perinatal services program. The fee schedule shall be based on family size and income, but in no case shall the fee exceed the actual cost of the services provided. The department shall not implement any schedule developed pursuant to this section sooner than 30 days after the state department has provided the chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house with the developed schedule.

All free clinics, as defined in paragraph (2) of subdivision (a) of Section 1204 shall be exempt from the provisions of this subdivision.

All organizations funded under the provisions of the Public Health Service Act, Sections 254b and 254c of Title 42 of the United States Code Annotated, shall be permitted to utilize those sliding fee scales mandated by federal law or regulation in lieu of the sliding fee scale promulgated by the state department.

CHAPTER 891

An act to amend Sections 7008, 7027, 7059, 7099, 7099.3, 7099.4, 7102, 7115, 7121, 7141, 7141.5, and 7153.2 of, to add Sections 7029.1, 7059.1, 7114.1, 7117.6, and 7121.5 to, to repeal and add Sections 7029, 7068.2, 7073, 7074, 7076, 7076.5, and 7083 to, and to repeal Sections 7067, 7074.5, and 7080 of, the Business and Professions Code, relating to contractors.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 7008 of the Business and Professions Code is amended to read:

7008. The board may appoint such committees and make such rules and regulations as are reasonably necessary to carry out the provisions of this chapter. Such rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.

SEC. 1.5. Section 7027 of the Business and Professions Code is amended to read.

7027. For the purposes of this chapter, the term contractor includes any person engaged in the business of the construction, installation, alteration, repair or preparation for moving of a mobilehome or mobilehome accessory buildings and structures upon a site for the purpose of occupancy as a dwelling.

The term contractor shall not include the manufacturer of the mobilehome or mobilehome accessory building or structure when it is constructed at a place other than the site upon which it is installed for the purpose of occupancy as a dwelling, and shall not include the manfacturer when he is solely performing work in compliance with his warranty. The term contractor shall include the manufacturer when he is engaged in onsite construction, alteration, or repair of a mobilehome or mobilehome accessory buildings and structures pursuant to specialized plans, specifications or models, or any work other than in compliance with his warranty.

For the purposes of this chapter,

(a) "Mobilehome" means a vehicle defined in Section 18008 of the Health and Safety Code.

(b) "Mobilehome accessory building or structure" means a building or structure defined in Section 18008.5 of the Health and Safety Code.

SEC. 2. Section 7029 of the Business and Professions Code is repealed.

SEC. 3. Section 7029 is added to the Business and Professions Code, to read:

7029. A joint venture license is any license issued to any

combination of individuals, corporations, or partnerships, each of which holds a current, active license in good standing. A joint venture license shall be suspended during any period in which any member of the entity does not hold a current, active license in good standing.

SEC. 4. Section 7029.1 is added to the Business and Professions Code, to read:

7029.1. It is unlawful for any two or more licensees, each of whom has been issued a license to act separately in the capacity of a contractor within this state, to jointly submit a bid or otherwise act as a contractor without first having secured a joint venture license in accordance with the provisions of this chapter as provided for an individual, partnership or corporation. Any violation of this section shall also constitute a cause for disciplinary action.

SEC. 5. Section 7059 of the Business and Professions Code is amended to read:

7059. The board may adopt reasonably necessary rules and regulations to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage, as defined by Sections 7055, 7056, 7057, and 7058. A licensee may make application for classification and be classified in more than one classification if the licensee meets the qualifications prescribed by the board for such additional classification or classifications. The application shall be in a form as prescribed by the registrar and shall be accompanied by the application fee fixed by this chapter. No license fee shall be charged for an additional classification or classifications.

Nothing contained in this section shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

SEC. 6. Section 7059.1 is added to the Business and Professions Code, to read:

7059.1. A licensee shall not use any name style which indicates the licensee is qualified to perform work in classifications other than those issued for that license, or any name style which is incompatible with the type of business entity licensed.

SEC. 7. Section 7067 of the Business and Professions Code is repealed.

SEC. 8. Section 7068.2 of the Business and Professions Code is repealed.

SEC. 9. Section 7068.2 is added to the Business and Professions Code, to read:

7068.2. If the responsible managing officer or responsible managing employee disassociates from the licensed entity, the

licensee, or the qualifier shall notify the registrar in writing, and the licensee shall replace the qualifier, within 90 days from the date of disassociation.

To replace a responsible managing officer or responsible managing employee, the licensee shall file an application as prescribed by the registrar, accompanied by the fee fixed by this chapter, designating an individual to qualify as required by this chapter.

Upon failure to replace the qualifier within 90 days of the disassociation the license shall be automatically suspended or the classification removed at the end of the 90 days.

If the licensee or his responsible managing officer or responsible managing employee qualifying for the license or classification fails to notify the registrar in writing or replace the qualifier within 90 days, the license shall be automatically suspended or the classification removed retroactively to 90 days from the date of disassociation.

The registrar may review and accept the petition of a licensee who disputes the date of disassociation or who has failed to notify and replace the qualifier within the prescribed time, upon a showing of good cause by the contractor. This petition shall be received within 90 days from the date of the order of suspension.

SEC. 10. Section 7073 of the Business and Professions Code is repealed.

SEC. 11. Section 7073 is added to the Business and Professions Code, to read:

7073. The registrar may deny any application where the applicant has failed to comply with any rule or regulation adopted pursuant to this chapter or where there are grounds for denial under Section 480. Procedures for denial of an application shall be conducted in accordance with Section 485.

SEC. 12. Section 7074 of the Business and Professions Code is repealed.

SEC. 13. Section 7074 is added to the Business and Professions Code, to read:

7074. An application for an original license, for an additional classification or for a change of qualifier shall become void when:

(a) The applicant or examinee for the applicant has failed to appear for the scheduled qualifying examination and fails to request and pay the fee for rescheduling within 90 days of notification of failure to appear, or, after being rescheduled, has failed to appear for a second examination.

(b) The applicant or the examinee for the applicant has failed to achieve a passing grade in the scheduled qualifying examination, and fails to request and pay the fee for rescheduling within 90 days of notification of failure to pass the examination.

(c) The applicant or the examinee for the applicant has failed to achieve a passing grade in the qualifying examination within three scheduled examinations.

(d) The applicant for an original license, after having been notified to do so, fails to pay the initial license fee within 90 days from

the date of such notice.

(e) The applicant, after having been notified to do so, fails to file within 90 days from the date of such notice any bond or cash deposit or other documents which may be required for issuance or granting pursuant to this chapter.

(f) After filing, the applicant withdraws the application.

(g) The applicant fails to return the application rejected by the board for insufficiency or incompleteness within 90 days from the date of original notice or rejection.

(h) The application is denied after disciplinary proceedings conducted in accordance with the provisions of this code.

An application voided pursuant to the provisions of this section shall remain in the possession of the registrar for such period as he deems necessary and shall not be returned to the applicant. Any reapplication for a license shall be accompanied by the fee fixed by this chapter.

SEC. 14. Section 7074.5 of the Business and Professions Code is repealed.

SEC. 15. Section 7076 of the Business and Professions Code is repealed.

SEC. 16. Section 7076 is added to the Business and Professions Code, to read:

7076. (a) An individual license shall be canceled upon the death of a person licensed as an individual. A partnership license shall be canceled upon the death or disassociation of a partner. A joint venture license shall be canceled upon the cancellation, revocation or withdrawal of any of its entity licenses.

However, for an individual license, an immediate member of the family of the deceased licensee or for a partnership license, the remaining partner, or for a joint venture, the remaining entities of the joint venture, shall be entitled to continue in business under the license for a reasonable length of time to be determined by rules of the board, provided application for permission is made to the registrar within 90 days after the event causing cancellation has occurred, and such application is approved by the registrar. Registrar approval of the continuance of an individual license may be contingent upon meeting the bond requirements of Sections 7071.5 and 7071.6 within 90 days of notification by the board of such requirement.

In the case of a continuance granted to a partnership after the disassociation of a partner or a continuance granted to a joint venture, the provisions of this section shall not apply except to those contracts entered into or to such business on which performance has been commenced, by the partnership or joint venture, before the event which is cause for cancellation occurred.

A license extended under this section is subject to all other provisions of this chapter.

(b) A corporation license shall be canceled upon notification that a corporation has either ceased to exist or has surrendered its right

to do business in California.

SEC. 17. Section 7076.5 of the Business and Professions Code is repealed.

SEC. 18. Section 7076.5 is added to the Business and Professions Code, to read:

7076.5. A contractor may inactivate his license by submitting a form prescribed by the registrar accompanied by the current active license certificate. When the current license certificate has been lost, the licensee shall pay the fee prescribed by law to replace the license certificate. Upon receipt of an acceptable application to inactivate, the registrar shall issue an inactive license certificate to the contractor. The holder of an inactive license shall not be entitled to practice as a contractor until his license is reactivated.

During the period that an existing license is inactive, no bonding requirement pursuant to Section 7071.6, 7071.8 or 7071.9 or qualifier requirement pursuant to Section 7068 shall apply. An applicant for license having met the qualifications for issuance may request that the license be issued inactive unless the applicant is subject to the provisions of Section 7071.8.

The board shall not refund any of the renewal fee which a licensee may have paid prior to the inactivation of his license.

An inactive license shall be renewed on each established renewal date by submitting the renewal application and paying the inactive renewal fee.

An inactive license may be reactivated by submitting an application acceptable to the registrar, by paying the full renewal fee for an active license and by fulfilling all other requirements of this chapter. No examination shall be required to reactivate an inactive license.

The inactive status of a license shall not bar any disciplinary action by the board against a licensee for any of the causes stated in this chapter.

SEC. 19. Section 7080 of the Business and Professions Code is repealed.

SEC. 20. Section 7083 of the Business and Professions Code is repealed.

SEC. 21. Section 7083 is added to the Business and Professions Code, to read:

7083. All licensees shall notify the registrar in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in personnel, name style, bond exemption pursuant to Section 7071.9 or exemption to qualify multiple licenses pursuant to Section 7068.1.

SEC. 22. Section 7099 of the Business and Professions Code is amended to read:

7099. If, upon investigation, the registrar has probable cause to believe that a licensee, or an applicant for a license under this chapter, has violated provisions of this chapter which are grounds for revocation or suspension, he may, in lieu of proceeding pursuant to

this article, issue a citation to such licensee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of correction fixing a reasonable time for correction of the violation and may contain an assessment of a civil penalty.

SEC. 23. Section 7099.3 of the Business and Professions Code is amended to read:

7099.3. Any licensee served with a citation pursuant to Section 7099, may appeal to the registrar within 15 working days from service of such citation with respect to violations alleged by the registrar, correction periods, amount of penalties, and the reasonableness of the change required by the registrar to correct the condition.

SEC. 24. Section 7099.4 of the Business and Professions Code is amended to read:

7099.4. If within 15 working days from service of the citation issued by the registrar, the licensee fails to notify the registrar that he intends to contest the citation, the citation shall be deemed a final order of the registrar and not be subject to review by any court or agency. The 15-day period may be extended by the registrar for cause.

SEC. 25. Section 7102 of the Business and Professions Code is amended to read:

7102. After suspension of the license upon any of the grounds set forth in this article, the registrar may reinstate the license upon proof of compliance by the contractor with all provisions of the decision as to reinstatement or, in the absence of such decision or any provisions therein as to reinstatement, in the sound discretion of the registrar.

After revocation of a license upon any of the grounds set forth in this article, the license shall not be reinstated or reissued and a license shall not be issued to any member of the personnel of the revoked licensee found to have had knowledge of or participated in the acts or omissions constituting grounds for revocation, within a period of one year after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with. When such loss has been reduced to a monetary obligation or debt, however, the satisfaction of such monetary obligation or debt as a prerequisite for the issuance, reissuance, or reinstatement of a license shall not be required where such monetary obligation or debt has been adjudicated in a bankruptcy proceeding.

SEC. 26. Section 7114.1 is added to the Business and Professions Code, to read:

7114.1. Any licensee whose signature appears on a falsified certificate in support of an examinee's experience qualifications, or otherwise certifying to false or misleading experience claims by an applicant, which have been submitted to obtain a contractor's license shall be subject to disciplinary action.

SEC. 27. Section 7115 of the Business and Professions Code is amended to read:

7115. Failure in any material respect to comply with the provisions of this chapter, or any rule or regulation adopted pursuant to this chapter, constitutes a cause for disciplinary action.

SEC. 28. Section 7117.6 is added to the Business and Professions Code, to read:

7117.6. Acting in the capacity of a contractor in a classification other than that currently held by the licensee constitutes a cause for disciplinary action.

SEC. 29. Section 7121 of the Business and Professions Code is amended to read:

7121. Any person who has been denied a license, or who has had his license revoked, or whose license is under suspension, or who has failed to renew his license while it was under suspension, or who has been a member, officer, director, or associate of any partnership, corporation, firm or association whose application for a license has been denied, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as such member, officer, director, or associate had knowledge of or participated in any of the prohibited acts for which the license was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner or qualifying individual of a licensee, and the employment, election or association of such person by a licensee shall constitute grounds for disciplinary action.

SEC. 30. Section 7121.5 is added to the Business and Professions Code, to read:

7121.5. Any person who was the qualifying individual on a revoked license, or of a license under suspension, or of a license that was not renewed while it was under suspension, shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual of a licensee, whether or not the individual had knowledge of or participated in the prohibited acts or omissions for which the license was revoked, or suspended, and the employment, election, or association of such person by a licensee shall constitute grounds for disciplinary action.

SEC. 31. Section 7141 of the Business and Professions Code is amended to read:

7141. Except as otherwise provided in this chapter, a license may be renewed at any time within three years after its expiration on filing of application for renewal on a form prescribed by the registrar, and payment of the appropriate renewal fee. If the license is renewed after the expiration date, the licensee shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which an acceptable renewal application is filed and the delinquency fee is paid and the licensee shall be considered as unlicensed during the time between the expiration date and the date the renewal becomes effective. If so

renewed, the license shall continue in effect through the date provided in Section 7140 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

If a license is not renewed within three years, the licensee shall make application for a license pursuant to Section 7066.

SEC. 32. Section 7141.5 of the Business and Professions Code is amended to read:

7141.5. The registrar may renew the license of a contractor who failed to renew the same by the due date retroactively to the first day of the renewal period within which the contractor files an application for renewal. This section shall only apply for a period not to exceed six months from the due date and only upon a showing by the contractor in a petition to the registrar that such failure to renew was due to circumstances beyond the control of the licensee.

SEC. 33. Section 7153.2 of the Business and Professions Code is amended to read:

7153.2. All registrations issued under the provisions of this article shall expire on June 30th of each even-numbered year, or as established pursuant to Section 152.6.

SEC. 34. 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.

CHAPTER 892

An act to amend Section 6534.2 of, to add Sections 6534.5 and 6541.6 to, and to repeal Sections 6534.5 and 6534.7 of, the Business and Professions Code, relating to barbers.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 6534.2 of the Business and Professions Code is amended to read:

6534.2. Upon receipt of the application the board shall require the applicant, if an individual, or a member, partner, or officer thereof if the applicant is a firm, partnership, or corporation, to appear personally before the board and submit information in such form as the board may by regulation prescribe showing:

(a) The location of the proposed college and its physical facilities and equipment, (b) the proposed maximum number of students to

be trained at any one time and the number of instructors to be provided, (c) the nature and terms of the applicant's right of possession of the proposed premises, whether by lease, ownership or otherwise, (d) the financial ability of the applicant to operate the college in accordance with the requirements of this chapter and the regulations of the board, (e) a copy of the school's curriculum, including course outlines, lesson plans and methods of student evaluation, and (f) such other information as the board considers necessary.

SEC. 2. Section 6534.5 of the Business and Professions Code is repealed.

SEC. 3. Section 6534.5 is added to the Business and Professions Code, to read:

6534.5. An applicant to operate a new barber college may be granted a license if the applicant presents to the board evidence that at least 15 persons have submitted student applications to the new barber college.

SEC. 4. Section 6534.7 of the Business and Professions Code is repealed.

SEC. 5. Section 6541.6 is added to the Business and Professions Code, to read:

6541.6. A new barber college which has been licensed in this state for less than two years shall be required to post with the board a bond issued by an admitted surety in the amount of twenty thousand dollars ($20,000). The bond shall be in favor of the Student Security Trust Fund. The bond shall remain in effect until the college completes two years of licensed operations.

In addition to the bonding requirement set forth above, every college shall be required to comply with the requirements of this article regarding the payment of assessments for support for the Student Security Trust Fund.

CHAPTER 893

An act to amend Section 32002.5 of, and to add Sections 1808.1, 12524, 12525, 12526, and 14611 to, the Vehicle Code, relating to transportation.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 1808.1 is added to the Vehicle Code, to read:

1808.1. The department shall develop a notification process for the purpose of providing the employer or prospective employer of a driver employed to haul hazardous radioactive materials with a report, at the employer's request, showing any abstracts of

convictions of the driver or accidents in which the driver was involved which are required to be sent to the department in Sacramento, and any subsequent convictions or accidents added to the driver's record while the employer's notification request remains valid and uncanceled. The request shall be accompanied by a fee determined by the department to be sufficient to pay at least the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811.

When an employer no longer wishes to receive information pursuant to this section, the employer shall notify the department to cancel the request.

SEC. 2. Section 12524 is added to the Vehicle Code, to read:

12524. (a) No driver shall operate a vehicle hauling fissile class III shipments or large quantity radioactive materials, as defined in Section 173.389 of Title 49 of the Code of Federal Regulations, unless the driver possesses a valid license of the appropriate class and a radioactive materials driver's certificate, issued by the Department of Motor Vehicles, which permits the driver to operate those vehicles.

(b) Applicants for the certificates shall present evidence to the Department of Motor Vehicles that they have successfully completed the radioactive materials hauler driving training course developed by the Department of Motor Vehicles and the Department of the California Highway Patrol before a certificate may be issued. Either the employer of the driver or a driving school licensed pursuant to Chapter 1 (commencing with Section 11100) of Division 5 may administer the training course.

(c) The certificate shall be issued only to applicants qualified by examinations prescribed by the Department of Motor Vehicles and the Department of the California Highway Patrol. These examinations shall be conducted by the Department of Motor Vehicles, and an examination fee of twelve dollars ($12) shall be paid by the applicant to the Department of Motor Vehicles.

SEC. 3. Section 12525 is added to the Vehicle Code, to read:

12525. (a) The department shall deny any application for the issuance of a radioactive materials driver's certificate made by an applicant who meets any of the following conditions:

(1) The applicant has been convicted, within the last five years preceding the applicant's application for the certificate, of any violation involving hit-and-run driving, driving while under the influence of intoxicating liquor or drugs, or both, or reckless driving, or the applicant's driving privilege is, or has been, under suspension, revocation, or probation by the department for a cause involving safe operation of a motor vehicle.

(2) Because of excessive and continuous use of alcoholic beverages, the applicant is incapable of safely operating a motor vehicle.

(3) The applicant habitually or excessively uses, or is addicted to,

the use of any drug.

(4) The applicant does not meet minimum medical standards, established or approved by the department.

SEC. 4. Section 12526 is added to the Vehicle Code, to read:

12526. (a) The department shall revoke the radioactive materials driver's certificate of any holder, who, after issuance of the certificate, is convicted of any violation involving hit-and-run driving, driving under the influence of intoxicating liquor, or drugs, or both, or reckless driving, or who has had the driving privilege suspended or revoked by the department for a cause involving the unsafe operation of a motor vehicle, or is found by the department to be a negligent operator.

(b) The department may revoke the radioactive materials driver's certificate of any holder for any cause, whether existing before or after the issuance of the certificate, which would either authorize or require the department to refuse to issue a certificate.

SEC. 5. Section 14611 is added to the Vehicle Code, to read:

14611. No person shall knowingly direct the operation of a vehicle transporting fissile class III shipments or large quantity radioactive materials, as defined in Section 173.389 of Title 49 of the Code of Federal Regulations, by an individual who does not possess a license of the appropriate class with a radioactive materials driver's certificate authorizing that transportation attached to the license.

A person convicted under this section shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

SEC. 6. Section 32002.5 of the Vehicle Code is amended to read:

32002.5. (a) The commissioner may temporarily suspend a license to haul hazardous material prior to any hearing, when, in the commissioner's opinion, the action is necessary to prevent an imminent and substantial danger to the public health. The commissioner shall notify the holder of the license of the temporary suspension and the effective date thereof and, at the same time, shall serve the person with an accusation. Upon receipt of a notice of defense to the accusation, the commissioner shall set the matter for a hearing which shall be held as soon as possible, but not later than 10 days after receipt of the notice of defense. The temporary suspension shall remain in effect until the hearing is completed and the commissioner has made a final determination on the merits, which, in any event, shall be made within 10 days after the completion of the hearing. If the determination is not transmitted within 10 days after the hearing is completed, the temporary suspension is of no further effect.

(b) The commissioner shall suspend a license to transport hazardous material of a person or motorcarrier, for a period of at least 90 days but not more than 180 days, if the holder of the license permits the transportation of fissile class III shipments or large quantity radioactive materials, as defined in Section 173.389 of Title 49 of the Code of Federal Regulations, by a person who does not

possess a license of the appropriate class and an attached radioactive materials driver's certificate.

SEC. 7. This act shall become operative on July 1, 1984.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 894

An act to repeal and add Section 2541.1 to the Penal Code, relating to correctional facilities personnel.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 2541.1 of the Penal Code is repealed.

SEC 2. Section 2541.1 is added to the Penal Code, to read:

2541.1. Every local agency which operates a custodial or correctional facility shall adopt regulations establishing disciplinary procedures and penalties for the unauthorized giving of any gifts to arrestees or prisoners or the unauthorized receipt of any gifts from arrestees or prisoners by officers or other employees.

This section shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute which is chaptered on or before such date, deletes or extends such date.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 895

An act to add Section 7902.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. The Legislature hereby finds and declares:

(a) Federal deregulation is introducing unprecedented volatility into state regulation of public utilities, and this federal action encourages the utilities' diversification into new and competitive lines of business.

(b) The diversification may be beneficial, but, if improperly done, may also endanger the fiscal integrity of public utilities, depriving individuals and enterprises in California of reliable and affordable service necessities.

(c) The public welfare of all Californians will be protected by Public Utilities Commission oversight of public utilities' reorganizations.

(d) The Legislature will protect the public welfare by enacting this act.

SEC. 2. Section 7902.5 is added to the Public Utilities Code, to read:

7902.5. (a) Every telephone corporation shall submit to the commission, on or before May 1, 1984, a report indicating those lines of business in which it is currently engaged and in which it intends to engage. The telephone corporation shall include, in the report, all of the following:

(1) An explanation in general terms of how the provision of telephone service is affected or will be affected by the telephone corporation's current and anticipated business activities.

(2) Proposals for suitable accounting and organizational structures, and regulatory treatment, for each of the current and anticipated business activities in which the telephone corporation is, or will be, engaged.

(b) It is the intent of the Legislature that any information provided by telephone corporations pursuant to this section does not bind the telephone corporation, as an implied contract, with telephone service consumers or with the commission.

(c) The commission shall review all reports submitted pursuant to this section and shall submit to the Legislature, on or before August 1, 1984, an analysis of the reports, including recommendations for future legislative action.

CHAPTER 896

An act to amend Section 18743.5 of, and to add Section 18742.1 to, the Business and Professions Code, relating to boxing and wrestling.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 18742.1 is added to the Business and Professions Code, to read:

18742.1. (a) A physician in attendance at any contest or match pursuant to Section 18742 shall have the same authority to stop any contest, match, or exhibition that is conferred upon a referee. The physician's authority to stop a contest or match shall be limited specifically to medically related injury or the physicial condition of a contestant.

(b) No physician shall be assigned by the commission to attend a contest or match pursuant to Section 18742 who, within the preceding six months, has not participated in a referees' and physicians' clinic as set forth in Section 18743.5.

SEC. 2. Section 18743.5 of the Business and Professions Code is amended to read:

18743.5. No referee or physician shall be assigned to a boxing match or sparring contest who, within the preceding six months, has not participated in a referees' and physicians' clinic at which the rules and regulations of the commission, the recognition and observation of serious life-threatening boxing related injuries, including but not limited to, neurological injuries, and problems relating to refereeing have been discussed. The commission is authorized to pay the necessary traveling expenses and other necessary expenses of a referee or physician while in attendance at the clinic.

CHAPTER 897

An act to amend Section 5003 of, to add Sections 5001.5 and 5003.05 to, and to add and repeal Article 3.4 (commencing with Section 5038) of Chapter 1 of Division 5 of, the Public Resources Code, relating to parks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 5001.5 is added to the Public Resources Code, to read:

5001.5. Whenever any reference is made to the state park system with respect to a duty, power, purpose, responsibility, or jurisdiction that can be exercised or carried out within the state vehicular recreation area and trail system, it shall be deemed to be also a reference to, and to mean, the state vehicular recreation area and trail system.

SEC. 2. Section 5003 of the Public Resources Code is amended to read:

5003. The department shall administer, protect, develop, and interpret the property under its jurisdiction for the use and enjoyment of the public. Except as provided in Section 18930 of the Health and Safety Code, the department may establish rules and regulations not inconsistent with law for the government and administration of the property under its jurisdiction. The department may expend all moneys of the department, from whatever source derived, for the care, protection, supervision, extension, and improvement or development of the property under its jurisdiction.

SEC. 3. Section 5003.05 is added to the Public Resources Code, to read:

5003.05. Rules and regulations adopted pursuant to Section 5003 shall also apply on any granted or ungranted tidelands or submerged lands abutting property of the department and used for recreational purposes by members of the general public in conjunction with their use of the department's property between the boundary of the lands under the jurisdiction of the department and a line running parallel to and 1,000 feet waterward of the ordinary high water mark, so long as the rule or regulation being applied is not inconsistent with any rule or regulation of the public agency having jurisdiction over the tidelands and submerged lands.

SEC. 4. Article 3.4 (commencing with Section 5038) is added to Chapter 1 of Division 5 of the Public Resources Code, to read:

Article 3.4. El Pueblo de Los Angeles State Historic Park

5038. Notwithstanding any other provision of this chapter or any other provision of law, the length of the term of any concession contract or approval within the El Pueblo de Los Angeles State Historic Park in effect on the effective date of this section shall, at the request of the concessionaire, be extended by the department, or its designee, until January 1, 1986, except that any contract extended pursuant to this section shall be renegotiated, if necessary, to ensure that the rental rates in the contract on January 1, 1984, accurately reflect current commercial rental market rates.

"Concession," as used in this section, does not include those premises at El Pueblo de Los Angeles State Historic Park which are primarily rented and used for offices, banking, or storage.

5039. This article shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that 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 the necessity are:

In order that the state park system be administered in accordance with this act at the earliest possible time, and in order that the operation of El Pueblo de Los Angeles State Historic Park not be disrupted, it is necessary that this act take effect immediately.

CHAPTER 898

An act to amend Sections 82016, 84200, 84209, and 84213 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 82016 of the Government Code is amended to read:

82016. "Controlled committee" means a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

SEC. 2. Section 84200 of the Government Code is amended to read:

84200. (a) All candidates and committees shall file campaign statements no later than July 31 and January 31 if they have made or received contributions or made expenditures during the six calendar months before the closing date of such statements; provided, that a candidate who, during the past six calendar months has filed a declaration pursuant to Section 84205, shall not be required to file a statement. All elected officers shall file campaign statements no later than July 31 and January 31; provided that this requirement does not apply to elected officers whose salaries are less than one hundred dollars ($100) a month or to judges, unless such elected officer or judge is a candidate or committee which makes or receives contributions or makes expenditures during the applicable six-month period. Filers specified in subdivision (c) shall not file the campaign statement required by this subdivision for the six-month period in

which an election referred to in subdivision (c) is held.

(b) In addition to the campaign statements required by subdivision (a), candidates, elected officers, controlled committees, and any committee formed primarily to support or oppose a candidate or a measure that has made or received contributions of five hundred dollars ($500) or more or made expenditures of five hundred dollars ($500) or more during the threshold periods specified below, and all other committees which, in an even-numbered year, have made or received contributions of five hundred dollars ($500) or more or made expenditures of five hundred dollars ($500) or more during the threshold periods specified below, or, in an odd-numbered year, have made contributions or independent expenditures of five hundred dollars ($500) or more during the threshold periods specified below shall file campaign statements on the following dates:

(1) No later than March 22, with a five hundred dollar ($500) threshold period of January 1 through March 17.

(2) No later than 12 days before the first Tuesday after the first Monday in June, with a five hundred dollar ($500) threshold period of March 18 through 17 days before the first Tuesday after the first Monday in June.

(3) September 22, with a five hundred dollar ($500) threshold period of July 1 through September 17.

(4) Twelve days before the first Tuesday after the first Monday in November, with a five hundred dollar ($500) threshold period of September 18 through 17 days before the first Tuesday after the first Monday in November.

Notwithstanding the above, elected officers, candidates, and their controlled committees and committees formed primarily to support or oppose a candidate or a ballot measure are not required to file campaign statements pursuant to this subdivision during any six-month period (from January 1 to June 30 or from July 1 to December 31) in which the candidate's office or the ballot measure is not to be voted on or in the case of an elected officer, when the elected officer is not a candidate for an office being voted on in a six-month period, unless they make contributions or expenditures of one hundred dollars ($100) or more to any other candidate, controlled committee, or committee formed primarily to support or oppose a candidate or ballot measure.

Filers specified in subdivision (c) shall not file the campaign statements required by this subdivision during the six months in which an election referred to in subdivision (c) is held.

Filers specified in subdivision (d) shall not file the campaign statements required by this subdivision until after the filing date for the campaign statement required by subdivision (d).

(c) If an election is held on a date other than the first Tuesday after the first Monday in June, or the first Tuesday after the first Monday in November, candidates voted on in such elections, their controlled committees and committees formed or existing primarily

to support or oppose such candidates or measures voted on in such election shall file campaign statements in connection with the election and shall also file the campaign statements required by subdivisions (a) and (b) for any six-month period in which such an election is not held. Statements filed in connection with such elections shall be filed no later than 40 days before the election, no later than 12 days before the election, and no later than 65 days after the election; provided, however, if a subsequent runoff election is held within 60 days of the first election, the postelection statement shall be filed 65 days after the runoff election. If, however, pursuant to this subdivision, a candidate or committee is required to file campaign statements in connection with a subsequent runoff resulting from that election which is held within 60 days of the first election, such statements shall be filed no later than 40 days prior to the first election (or March 22, if the first election is on the first Tuesday after the first Monday in June, or September 22, if the first election is on the first Tuesday after the first Monday in November) no later than 12 days prior to the first election, no later than 12 days prior to the runoff and no later than 65 days after the runoff election.

(d) Committees formed or existing primarily to support or oppose the qualification of a measure and a proponent of a state measure who controls a committee formed or existing primarily to support the qualification of a state measure shall file campaign statements not later than 35 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever is earlier. A committee filing pursuant to this subdivision shall not be required to file semiannual campaign statements under subdivision (a) until after the filing date for the campaign statement required by this subdivision.

SEC. 3. Section 84209 of the Government Code is amended to read:

84209. A candidate or state measure proponent and any committee or committees which the candidate or a state measure proponent controls may file consolidated campaign statements under this chapter. Such consolidated statements shall be filed in each place each of the committees and the candidate or state measure proponent would be required to file campaign statements if separate statements were filed.

SEC. 4. Section 84213 of the Government Code is amended to read:

84213. A candidate and state measure proponent shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control. The verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section

81004.

SEC. 5. 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 899

An act to add Sections 97.75 and 97.8 to the Revenue and Taxation Code, relating to public finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 97.75 is added to the Revenue and Taxation Code, to read:

97.75. (a) Notwithstanding any other provision of law, in computing a county's state assistance payment pursuant to Section 95, the full amount of the computation required by Section 16713 of the Welfare and Institutions Code shall be subtracted from the amount determined pursuant to subdivision (b) of Section 16260 of the Government Code, increased by the amount specified for the county pursuant to Section 94 of Chapter 282 of the Statutes of 1979. The resultant sum may be either positive or negative in value. It is the intent of the Legislature that this subdivision is a declaration and clarification of existing law.

(b) Commencing with the 1983–84 fiscal year, the provisions of subdivision (a) shall be utilized in the allocation and apportionment of property tax revenue. Any adjustments which are necessary to comply with subdivision (a) shall include nonretroactive adjustments to the 1979–80 through 1982–83 fiscal year annual tax increments computed pursuant to Section 98, insofar as these increments are carried over from year to year and thereby affect allocations in the 1983–84 fiscal year and fiscal years thereafter. Computations which are inconsistent with subdivision (a) shall be deemed to have complied with the provisions of Section 95 only insofar as the computations may affect allocations and apportionments for the 1982–83 fiscal year or prior fiscal years.

SEC. 2. Section 97.8 is added to the Revenue and Taxation Code, to read:

97.8. (a) Notwithstanding any other provision of law, the computation of a county's state assistance payment pursuant to Section 95 shall be based on an 8-percent adjustment to the county's 1977–78 fiscal year county health services grant, as required by Section 16713 of the Welfare and Institutions Code.

(b) Commencing with the 1983–84 fiscal year, the provisions of subdivision (a) shall be utilized in the allocation and apportionment of property tax revenues. Any adjustments which are necessary to comply with subdivision (a) shall include adjustments to the 1979–80 through 1982–83 fiscal year annual tax increments computed pursuant to Section 98, insofar as these increments are carried over from year to year and thereby affect allocations in the 1983–84 fiscal year and fiscal years thereafter. Retroactive adjustments may be undertaken, at a county's option. Otherwise, the computations which are inconsistent with subdivision (a) shall be deemed to have complied with the provisions of Section 95 insofar as the computations may affect allocations and apportionments for the 1981–82 fiscal year or prior fiscal years.

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:

Certain counties, through a different interpretation of the method of computing state assistance payments, apportioned property tax revenues between local agencies and school entities within their respective jurisdictions without a negative transfer of funds. As a result, the Controller intends to adjust the amount of subventions to those counties to correct the deficiency at the commencement of the 1983–84 fiscal year. In order for those counties to avoid any financial crisis that may occur as the result of the adjustment in those subventions, it is necessary that this act go into immediate effect.

CHAPTER 900

An act to amend Sections 14171 and 14172.5 of the Welfare and Institutions Code, relating to Medi-Cal overpayments.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall adopt regulations establishing an administrative appeal process to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) The administrative appeal process established by the director shall guarantee a provider the right to present any grievances or complaints arising from the findings of an audit or examination made by or on behalf of the department pursuant to Sections 10722 and 14170 at an impartial hearing which shall include the procedural

requirements of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The impartial hearing shall be conducted by a hearing officer appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(c) Notwithstanding subdivision (b) of this section, the administrative appeal process established by the director for institutional providers shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (b).

(d) Notwithstanding subdivision (b) of this section, the administrative appeal process established by the director for noninstitutional providers shall commence with an informal conference with the provider, a representative of the department, and the hearing officer. The informal conference shall be conducted no later than 90 days after the issuance of the first statement of account status or demand for repayment to the noninstitutional provider. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 120 days after the issuance of the first statement of account status or demand for repayment to the noninstitutional provider. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (b). For noninstitutional providers, the impartial hearing shall be conducted no later than 180 days after the issuance of the first statement of account status or demand for payment to the noninstitutional provider. A final decision shall be prepared within 30 days after the impartial hearing is conducted.

(e) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(f) Commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the

Pooled Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(g) The final decision of the director shall be reviewable in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

SEC. 2. Section 14172.5 of the Welfare and Institutions Code is amended to read:

14172.5. (a) No later than 60 days after the completion of an audit or examination pursuant to Sections 10722 and 14170, the department shall issue the first statement of account status or demand for repayment.

(b) Notwithstanding the provisions of Section 14172 or any other law, when it is established that an overpayment has been made to an institutional provider, the department shall not begin liquidation of the overpayment until 60 days after issuance of the first statement of accountability or demand for repayment after issuance of the audit or examination report establishing the overpayment. Should it be found upon appeal that no overpayment was made to the institutional provider, the department shall repay the amount collected, together with the payment of interest thereon, from the date occurring 60 days after issuance of the first statement of accountability or demand for repayment after issuance of the audit or examination report alleging the overpayment.

The provisions of this subdivision shall not be construed so as to affect the department's authority under other provisions of law for liquidation of overpayments to noninstitutional providers.

(c) If on the basis of reliable evidence, the department has a valid basis for believing that, with respect to a provider, proceedings have been or will shortly be instituted in a state or federal court for purposes of determining whether the provider is insolvent or bankrupt under appropriate state or federal law, or that a provider is or will shortly be taking action which reasonably might seriously hinder or defeat the department's ability to collect overpayments in the future, the department may immediately adjust any payments to the provider to a level necessary to insure that no overpayment to the provider is made.

CHAPTER 901

An act to add Sections 14134.1, 16704.1, and 16718 to the Welfare and Institutions Code, relating to health.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 14134.1 is added to the Welfare and Institutions Code, to read:

14134.1. Except as provided in subdivision (b) of Section 14134, no provider under this chapter may deny care or services to an individual eligible for such care or services under this chapter on account of the individual's inability to pay a copayment, as defined in Section 14134. The requirements of this section shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the copayment.

SEC. 2. Section 16704.1 is added to the Welfare and Institutions Code, to read:

16704.1. No fee or charge shall be required of any person before a county renders medically necessary services to persons entitled to services pursuant to funding provided in the medically indigent services account as defined in Section 16703 and persons entitled to services under Section 17000.

SEC. 3. Section 16718 is added to the Welfare and Institutions Code, to read:

16718. Each facility treating persons pursuant to Section 17000 shall provide, at the time treatment is sought, individual notice of the availability of reduced cost health care. In addition, conspicuous posted notices of the procedures for applying for reduced cost health care shall be displayed in all emergency rooms and patient waiting rooms of each facility treating persons pursuant to Section 17000.

SEC. 4. Sections 1 and 2 of this act are a clarification of, and are declaratory of, existing law. It is not the intent of this act to affect any county's ability to implement a reasonable sliding scale fee schedule, based on ability to pay, which is in compliance with Section 16704 of the Welfare and Institutions Code.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 902

An act to amend Sections 11155 and 11257 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 11155 of the Welfare and Institutions Code is amended to read:

11155. In addition to the personal property permitted by other provisions of this part, and to the extent permitted by federal law, an applicant or recipient, including an applicant for or recipient of aid to families with dependent children, may retain items of personal property, other than cash, securities, instruments or other evidences of indebtedness, of a market value, less encumbrances, not to exceed one thousand dollars ($1,000), and in addition property, to the extent permitted by federal law, falling within the following categories:

1. The entire value of wedding and engagement rings, heirlooms and clothing.

2. The value of household furnishings and, in addition, other property used to provide, equip and maintain a household for the applicant or recipient.

3. Tools of trade, equipment and material of reasonable value that will assist in the employment, rehabilitation, or self-care of the applicant or recipient in any occupation, trade, or profession in which the applicant or recipient has training, education, or experience. The county shall determine whether there are any physical barriers which render the individual incapable of returning to his or her occupation, trade, or profession.

In determining the reasonable value of the tools, equipment and materials, each item shall be separately considered and individually evaluated. The value of each tool, piece of equipment, or material shall be presumed reasonable if the value is typical of the value of the same or similar tools, equipment, or materials that are ordinarily used in the chosen occupation or trade of the recipient.

4. Any property right that is essential to land use or that is not currently available for the use of or expenditure by or in behalf of the applicant or recipient to meet a current or future need of the applicant or recipient.

In addition to all of the foregoing the director may at his or her discretion, and to the extent permitted by federal law, exempt other items of personal property not exempted under this section.

SEC. 2. Section 11257 of the Welfare and Institutions Code is amended to read:

11257. (a) No aid under this chapter shall be granted or paid for any child who has real or personal property, the combined market

value reduced by any obligations or debts with respect to this property of which exceeds one thousand dollars ($1,000), or for any child or children in one family who have, or whose parents have, or the child or children and parents have, real and personal property the combined market value reduced by any obligations or debts with respect to this property which exceeds one thousand dollars ($1,000).

For purposes of this subdivision, real and personal property shall be considered both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make that sum available for support and maintenance.

(b) Notwithstanding subdivision (a) above, an applicant or recipient may retain the following:

(1) Personal or real property owned by him or her, or in combination with any other person, without reference to its value, if it serves to provide the applicant or recipient with a home. The basic home may be a multiple-dwelling unit if the units not so occupied by the applicant or recipient are producing income for the support of the applicant or recipient consistent with their rental value.

For the purposes of subsection (1), if an applicant has entered into a marital separation for the purpose of trial or legal separation or dissolution, real property which was the usual home of the applicant shall be exempt for three months following the end of the month in which aid begins. If the recipient was receiving aid when the marital separation occurred, the period of exemption shall be three months following the end of the month in which the separation occurs. To remain exempt following this three-month period, the home must be occupied by the recipient, or be unavailable for use, control, and possession due to legal proceedings affecting a property settlement or sale of the property.

(2) Personal property consisting of one automobile with maximum equity value as permitted by federal law.

(3) In addition to the foregoing, the director may at his or her discretion, and to the extent permitted by federal law, exempt other items of personal property not exempted under this section.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 903

An act to amend Sections 984 and 2655 of the Unemployment Insurance Code, relating to unemployment compensation disability benefits, and making an appropriation therefor.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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 the 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.

Adjustment	Fund Adequacy		Rate
Line	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.

Adjustment	Difference in Fund Adequacy		Rate
Line	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%

(5) If by October 31, 1984, the director finds that the contribution rate established by this subdivision for calendar year 1985 is such that the ability of the Disability Fund to meet its estimated 1985 and 1986 obligations promptly when due will become endangered, he or she shall increase the contribution rate otherwise provided by this subdivision by an additional one-tenth of 1 percent in order to protect the solvency of the fund.

(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 2655 of the Unemployment Insurance Code is amended to read:

2655. An individual's "weekly benefit amount" shall be the amount appearing in column B in the table set forth in this section on the line of which in column A of such table there appears the wage bracket containing the amount of wages paid to such individual for employment by employers during the quarter of his or her disability base period in which such wages were the highest.

A Amount of wages in highest quarter	B Weekly benefit amount
$75–1,149.99	$50
1,150–1,174.99	51
1,175–1,199.99	52
1,200–1,224.99	53
1,225–1,249.99	54
1,250–1,274.99	55
1,275–1,299.99	56
1,300–1,324.99	57
1,325–1,349.99	58
1,350–1,374.99	59
1,375–1,399.99	60
1,400–1,424.99	61
1,425–1,449.99	62
1,450–1,474.99	63
1,475–1,499.99	64
1,500–1,524.99	65
1,525–1,549.99	66
1,550–1,574.99	67
1,575–1,599.99	68
1,600–1,624.99	69
1,625–1,649.99	70
1,650–1,674.99	71

1,675–1,699.99	72
1,700–1,724.99	73
1,725–1,749.99	74
1,750–1,774.99	75
1,775–1,799.99	76
1,800–1,824.99	77
1,825–1,849.99	78
1,850–1,874.99	79
1,875–1,899.99	80
1,900–1,924.99	81
1,925–1,949.99	82
1,950–1,974.99	83
1,975–1,999.99	84
2,000–2,024.99	85
2,025–2,049.99	86
2,050–2,074.99	87
2,075–2,099.99	88
2,100–2,124.99	89
2,125–2,149.99	90
2,150–2,174.99	91
2,175–2,199.99	92
2,200–2,224.99	93
2,225–2,249.99	94
2,250–2,274.99	95
2,275–2,299.99	96
2,300–2,324.99	97
2,325–2,349.99	98
2,350–2,374.99	99
2,375–2,399.99	100
2,400–2,424.99	101
2,425–2,449.99	102
2,450–2,474.99	103
2,475–2,499.99	104
2,500–2,524.99	105
2,525–2,549.99	106
2,550–2,574.99	107
2,575–2,599.99	108
2,600–2,624.99	109
2,625–2,649.99	110
2,650–2,674.99	111
2,675–2,699.99	112
2,700–2,724.99	113
2,725–2,749.99	114
2,750–2,774.99	115
2,775–2,799.99	116
2,800–2,824.99	117
2,825–2,849.99	118
2,850–2,874.99	119
2,875–2,899.99	120

2,900–2,924.99	121
2,925–2,949.99	122
2,950–2,974.99	123
2,975–2,999.99	124
3,000–3,024.99	125
3,025–3,049.99	126
3,050–3,074.99	127
3,075–3,099.99	128
3,100–3,124.99	129
3,125–3,149.99	130
3,150–3,174.99	131
3,175–3,199.99	132
3,200–3,224.99	133
3,225–3,249.99	134
3,250–3,274.99	135
3,275–3,299.99	136
3,300–3,324.99	137
3,325–3,349.99	138
3,350–3,374.99	139
3,375–3,399.99	140
3,400–3,424.99	141
3,425–3,449.99	142
3,450–3,474.99	143
3,475–3,499.99	144
3,500–3,524.99	145
3,525–3,549.99	146
3,550–3,574.99	147
3,575–3,599.99	148
3,600–3,624.99	149
3,625–3,649.99	150
3,650–3,674.99	151
3,675–3,699.99	152
3,700–3,724.99	153
3,725–3,749.99	154
3,750–3,774.99	155
3,775–3,799.99	156
3,800–3,824.99	157
3,825–3,849.99	158
3,850–3,874.99	159
3,875–3,899.99	160
3,900–3,924.99	161
3,925–3,949.99	162
3,950–3,974.99	163
3,975–3,999.99	164
4,000–4,024.99	165
4,025–4,049.99	166
4,050–4,074.99	167
4,075–4,099.99	168
4,100–4,124.99	169

4,125–4,149.99	170
4,150–4,174.99	171
4,175–4,199.99	172
4,200–4,224.99	173
4,225–4,249.99	174
4,250–4,274.99	175
4,275–4,299.99	176
4,300–4,324.99	177
4,325–4,349.99	178
4,350–4,374.99	179
4,375–4,399.99	180
4,400–4,424.99	181
4,425–4,449.99	182
4,450–4,474.99	183
4,475–4,499.99	184
4,500–4,524.99	185
4,525–4,549.99	186
4,550–4,574.99	187
4,575–4,599.99	188
4,600–4,624.99	189
4,625–4,649.99	190
4,650–4,674.99	191
4,675–4,699.99	192
4,700–4,724.99	193
4,725–4,749.99	194
4,750–4,774.99	195
4,775–4,799.99	196
4,800–4,824.99	197
4,825–4,849.99	198
4,850–4,874.99	199
4,875–4,899.99	200
4,900–4,924.99	201
4,925–4,949.99	202
4,950–4,974.99	203
4,975–4,999.99	204
5,000–5,024.99	205
5,025–5,049.99	206
5,050–5,074.99	207
5,075–5,099.99	208
5,100–5,124.99	209
5,125–5,149.99	210
5,150–5,174.99	211
5,175–5,199.99	212
5,200–5,224.99	213
5,225–5,249.99	214
5,250–5,274.99	215
5,275–5,299.99	216
5,300–5,324.99	217
5,325–5,349.99	218

5,350–5,374.99	219
5,375–5,399.99	220
5,400–5,424.99	221
5,425–5,449.99	222
5,450–5,474.99	223
5,475 and over	224

SEC. 3. Section 2 of this act shall become operative with respect to periods of disability commencing on or after January 1, 1984. The provisions of law in effect prior to the amendment of Section 2655 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, 1984.

SEC. 4. The Employment Development Department shall conduct a study and report to the Assembly Committee on Finance and Insurance and the Senate Industrial Relations Committee on all aspects of the unemployment compensation disability insurance program and the disability insurance fund. The department shall confer with the chairmen of these committees or their representatives no later than March 1, 1984, to mutually agree on the scope and purpose of the study. The department's report to the legislative committees shall be made no later than February 1, 1986.

CHAPTER 904

An act to amend Sections 130052, 130054.8, and 130100 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 130052 of the Public Utilities Code is amended to read:

130052. The Orange County Transportation Commission shall consist of eight members appointed as follows:

(a) Three members of the Orange County Board of Supervisors appointed by that board, to serve ex officio, one of whom shall serve on the Board of Directors of the Orange County Transit District.

(b) Three members appointed by the Orange County City Selection Committee, one of whom shall serve on the Board of Directors of the Orange County Transit District. Each member appointed by the city selection committee shall be a resident of a different supervisorial district and shall be a mayor or a city councilman serving within the county, to serve ex officio.

(c) One member appointed by a majority vote of the other six voting members of the commission, which member shall be a

resident of Orange County who is not then serving, and has not within the last 10 years served, as an elected official of a city within the county, as an elected official of the county, or as a public member on the Board of Directors of the Orange County Transit District. The member appointed pursuant to this subdivision shall not be a resident of a supervisorial district in which reside two other members appointed pursuant to subdivisions (a) and (b).

(d) One nonvoting member appointed by the Governor.

(e) Appointments of members pursuant to subdivision (a) or (b) shall be made in such a manner that at all times each of the five supervisorial districts of Orange County shall be represented by at least one supervisor or one mayor or city councilman.

SEC. 2. Section 130054.8 of the Public Utilities Code is amended to read:

130054.8. The Governor shall appoint a nonvoting member to each of the commissions to represent the interest of state.

The appointees shall serve terms of four years and until their successors are appointed and qualified.

No individual shall serve as a nonvoting member more than two terms on a commission.

SEC. 3. Section 130100 of the Public Utilities Code is amended to read:

130100. Except as otherwise provided in Section 130052, each commission at its first meeting, and thereafter annually at the first meeting in January or at such other date as the commission may determine, shall elect a chairperson from its members who shall preside at all meetings, and a vice chairperson who shall preside in his or her absence. In the event of their absence or inability to act, the members present, by an order entered in the minutes, shall select one of their members to act as chairperson pro tempore, who, while so acting, shall have all of the authority of the chairperson.

SEC. 4. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 6. This act shall become operative only if Senate Bill No. 693 of the 1983–84 Regular Session of the Legislature is chaptered and becomes operative, in which case this bill shall become operative on the operative date of Senate Bill No. 693.

CHAPTER 905

An act to add Sections 10850.3, 10850.7, and 17006.5 to the Welfare and Institutions Code, relating to welfare, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 10850.3 is added to the Welfare and Institutions Code, to read:

10850.3. (a) Notwithstanding the provisions of Section 10850, an authorized employee of a county welfare department may disclose confidential information concerning a public social services applicant or recipient to any law enforcement agency where a warrant has been issued for the arrest of the applicant or recipient for the commission of a felony. Information that may be released pursuant to this section shall be limited to the name, address, telephone number, birthdate, social security number, and physical description, of the applicant for, or recipient of, public social services.

(b) A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the county welfare department. A county welfare department shall notify all applicants of public social services that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant. A recipient of public social services shall be notified at the time of renewal of his or her application for public social services, but not later than one year from the effective date of this section, as added during the 1983–84 Regular Session, that a release of confidential information can be made should there be a felony arrest warrant issued against the recipient.

(c) This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving public social services.

(d) The provisions of this section shall be operative only to the extent permitted by federal law. The section shall not apply to, but shall exclude the Medi-Cal program, established pursuant to Chapter 7 (commencing with Section 14000) and following.

SEC. 2. Section 10850.7 is added to the Welfare and Institutions Code, to read:

10850.7. (a) Notwithstanding the provisions of Section 10850, an

authorized employee of a county welfare department may disclose confidential information concerning a public social services applicant or recipient to any law enforcement agency where the applicant or recipient is deceased. Information that may be released pursuant to this section shall be limited to the name, address, telephone number, birthdate, social security number, and physical description of the applicant for, or recipient of, public social services.

A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the head of the agency specifying that the applicant or recipient is deceased and that the agency is otherwise unable to adequately identify the deceased. The information specified may alternatively be released by telephone, whereupon the head of the law enforcement agency shall submit the request in writing within five days of the release.

(b) This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving public social services.

(c) The provisions of this section shall be operative only to the extent permitted by federal law. The section shall not apply to, but shall exclude the Medi-Cal program established pursuant to Chapter 7 (commencing with Section 14000) and following.

SEC. 3. Section 17006.5 is added to the Welfare and Institutions Code, to read:

17006.5. (a) Notwithstanding the provisions of Section 17006, the board, officer, committee, person, or society having custody of the records cited in Section 17006 may disclose to any law enforcement agency:

(1) The name, address, birthdate, social security number, and physical description, of any person receiving relief, if a warrant has been issued for the arrest of the person for the commission of a felony.

The board, officer, committee, person, or society having custody of the records may release the information specified by this subdivision to any law enforcement agency upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of a law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing. It is the intent of this section that a county welfare department shall notify all applicants of public social services that release of confidential information of their records will not be protected should there be a felony arrest warrant issued against the applicant. A recipient of public social services shall be notified at the time of renewal of his or her application for relief, but no later than one year from the effective date of this section, as added during the 1983–84 Regular Session, of release of confidential information should there be a felony arrest warrant issued against the recipient.

(2) The name, address, telephone number, birthdate, social security number, and physical description of any person receiving relief upon written request of the head of any law enforcement agency specifying that the person is deceased and that the agency is otherwise unable to adequately identify the person. The information specified may alternatively be released by telephone, whereupon the head of the law enforcement agency shall submit the request in writing within five days of the release.

(b) This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving public relief.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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. 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 law enforcement agencies to execute currently outstanding warrants of arrest in felony cases, it is necessary that this act take effect immediately.

CHAPTER 906

An act to add Article 2.8 (commencing with Section 53247) to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, relating to local government.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Article 2.8 (commencing with Section 53247) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 2.8. Comparable Pay

53247. As used in this article, "local agency" means any county, city, city and county, including any charter county, city, or city and county, and any district, school district, municipal or public corporation, political subdivision, or public agency of the state, or any instrumentality of one or more of any such agencies.

53248. (a) No local agency shall adopt or continue in effect an

ordinance or policy which prohibits consideration of comparability of the value of the work as one of the factors which may be used during the collective-bargaining process to negotiate salaries. Existing memoranda of understanding, presently in effect, would continue to control until they expire. Thereafter, there shall be negotiations in accordance with this article.

(b) For purposes of this section, the following definitions apply:

(1) "Comparability of the value of the work" means the value of the work performed by an employee, or group of employees within a class or salary range, in relation to the value of the work of another employee, or group of employees, to any class or salary range maintained by a local agency, and shall be measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of the work with other classes of employees.

(2) "Skill" means the skill required in the performance of the work, including any type of intellectual or physical skill acquired by the employee through experience, training, education, or natural ability.

(3) "Effort" means the effort required in the performance of the work, including any intellectual or physical effort.

(4) "Responsibility" means the responsibility required in the performance of the work, including the extent to which the employer relies on the employee to perform the work, the importance of the duties, and the accountability of the employee for the work of others and for resources.

(5) "Working conditions" means the conditions under which the work of an employee is performed, including physical or psychological factors.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 907

An act to amend Sections 51226, 51326, 51335, 52080, and 52099 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983.]

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

SECTION 1. Section 51226 of the Health and Safety Code is amended to read:

51226. (a) Subject to the availability of adequate subsidies, not less than 30 percent of the combined total units financed by mortgage loans and property improvement loans pursuant to this part during each fiscal year shall be made available on a priority basis to very low income households. Subject to the availability of adequate subsidies, not less than 20 percent of the units in each housing development shall be made available on a priority basis to very low income households, except that such requirement shall not apply to housing developments of less than 12 units where the agency finds it is not necessary to make units available in the development for very low income households to meet the requirement of making 30 percent of total units available to very low income households. In housing developments for which the agency provides a construction loan but not a mortgage loan, not less than 20 percent of the units shall be made available on a priority basis to lower income households. Units required to be made available on a priority basis pursuant to this section, shall be offered exclusively to those within the priority group unless or until the agency permits the unit to be offered to other potential occupant groups.

(b) In rental housing developments for which the agency provides insurance but not construction or mortgage loans, not less than 10 percent of the units shall be made available on a priority basis to lower income households. These units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to the range of those units which are available for other tenants.

(c) The agency shall actively and aggressively pursue all available federal housing programs and utilize fully all available subsidies in order to achieve the purposes of this section.

SEC. 2. Section 51326 of the Health and Safety Code is amended to read:

51326. This chapter shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 3. Section 51335 of the Health and Safety Code is amended to read:

51335. (a) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issuance of the agency shall be for occupancy on a priority basis by lower income households, as defined in Section 50079.5. In the case of a multifamily rental housing development located within a targeted area project, as defined by Section 1103(b) of Public Law 96-499, a part of the federal Mortgage

Subsidy Bond Tax Act of 1980, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. To the extent feasible, as determined in the sole discretion of the agency, and whose decision shall be final and conclusive, half of the reserved units shall be for occupancy on a priority basis by individuals and families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, as median adjusted gross income may, from time to time, be determined pursuant to Section 8 of the United States Housing Act of 1937. In determining the feasibility of meeting this requirement, the agency shall consider the availability of rent subsidies or other financial aid from the federal or state government.

The local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units through reductions in construction and design requirements, by making provision for density bonuses, by providing for expedited processing, and by making provision for other financial incentives for the multifamily rental housing development.

The agency shall require the housing sponsor to accept as tenants, on the same basis as all other prospective tenants, lower income households who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 or its successor.

The agency shall not permit a selection criteria to be applied to Section 8 certificate holders that is any more burdensome than the criteria applied to all other prospective tenants.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the agency providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy for the period required by the Internal Revenue Code of 1954. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. Such regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located.

At the option of the agency, the amendments to this section made at the 1983–84 Regular Session of the Legislature may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

SEC. 4. Section 52080 of the Health and Safety Code is amended to read:

52080. (a) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter

from the proceeds of sale of each bond issuance of the city or county shall be for occupancy on a priority basis by individuals or families whose adjusted gross income does not exceed 80 percent of the median adjusted gross income for the area, as adjusted gross income may from time to time be determined pursuant to Section 8 of the United States Housing Act of 1937. In the case of multifamily rental housing development located within a targeted area project, as defined by Section 1103(b) of P.L. 96-499, a part of the federal Mortgage Subsidy Bond Tax Act of 1980, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by those individuals or families. To the extent feasible, as determined in the sole discretion of the governing body of the issuing city or county, and whose determination shall be final and conclusive, at least one-half of these reserved units shall be for occupancy on a priority basis by individuals or families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, as median adjusted gross income may from time to time be determined pursuant to Section 8 of the United States Housing Act of 1937. In determining the feasibility of meeting this requirement, the governing body shall consider the availability of rent subsidies or other financial aid from the federal or state government.

The local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units through reductions in construction and design requirements, by making provision for density bonuses, by providing for expedited processing, and by making provision for other financial incentives for the multifamily rental housing development.

The governing body of the issuing city or county shall require the housing sponsor to accept as tenants, on the same basis as all other prospective tenants, low-income tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 or its successor.

The governing body shall not permit a selection criteria to be applied to Section 8 certificate holders that is more burdensome than the criteria applied to all other prospective tenants.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy for the period required by Section 103(b)(12)(B) of the Internal Revenue Code of 1954. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing

development is located.

(c) The governing body shall ensure that units occupied by individuals and families whose adjusted gross incomes do not exceed 80 percent of the area median adjusted gross income shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(d) At the option of the city or county, the amendments to this subdivision made at the 1983–84 Regular Session of the Legislature may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

SEC. 5. Section 52099 of the Health and Safety Code is amended to read:

52099. This chapter shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 the necessity are:

There is a vital need to develop additional new rental housing in this state. In order to provide state and local governments with the authority to issue bonds in an effort to alleviate that need, it is necessary for this act to take effect immediately.

CHAPTER 908

An act to amend Sections 51003 and 51350 of the Health and Safety Code, relating to housing.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 19, 1983]

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

SECTION 1. Section 51003 of the Health and Safety Code is amended to read:

51003. The agency shall from time to time direct the Treasurer

to invest moneys in the fund which are not required for its current needs, including proceeds from the sale of any bonds, in such eligible securities specified in Section 16430 of the Government Code as the agency shall designate. The agency may direct the Treasurer to invest such moneys by entering into repurchase agreements or reverse repurchase agreements, which for purposes of this section shall mean agreements for the purchase or sale of eligible securities pursuant to which the seller or buyer agrees to repurchase or sell back such securities on or before a specified date and for a specified amount. The agency may direct the Treasurer to invest such moneys in investment agreements with corporations, financial institutions or national associations within the United States, provided that such corporations, institutions or associations are rated by a nationally recognized rating service within the top three ratings of such service. For purposes of this section, investment agreements shall mean any agreement for the investment of moneys in the fund whether at fixed or variable interest rates, and may include but not be limited to repurchase agreements, notes, uncollateralized time deposits and certificates of deposit. The agency may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. Subject to any agreements with holders of particular bonds, and to the extent public deposits are permitted by law in each type of financial institution, the agency shall direct the Treasurer to make such deposits based on the relative participation of the different types of financial institutions as qualified mortgage lenders. However, such allocations shall not be required to the extent that they would result in receipt by the agency of a deposit interest rate that is lower than the highest interest rate available from another institution qualified to receive such deposits. The agency may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to 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 or deposit 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.

SEC. 2. Section 51350 of the Health and Safety Code is amended to read:

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, issue its bonds in such principal amount as the agency shall determine to be necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure such bonds, and other expenditures of the agency incident to,

and necessary or convenient to, issuance of such bonds.

(b) Sale of the bonds of the agency shall be coordinated by the Treasurer. To obtain a date for the sale of bonds, the agency shall inform the Treasurer of the amount of the proposed issue. Upon such notification, the Treasurer shall provide three 10-day periods, within the 90 days next following, when the bonds can be sold. The agency may choose any date during the suggested periods or any other date to which the agency and the Treasurer have mutually agreed. The Treasurer shall sell the bonds on the date chosen according to terms approved by the agency.

The Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or powers of the agency or any member, officer, or representative of the agency or the Treasurer to carry out and perform in every detail each and every convenant, agreement, or contract at any time made or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders thereof.

(c) Except as provided in subdivisions (d), (e), and (f), the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall not exceed seven hundred fifty million dollars ($750,000,000), exclusive of the principal indebtedness of bonds issued to refund or renew previously issued bonds of the agency, to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

(d) Effective January 1, 1980, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be increased by seven hundred fifty million dollars ($750,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(e) Effective January 1, 1983, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by three hundred fifty million dollars ($350,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c) or (d), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds

and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of such bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(f) Effective January 1, 1984, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by five hundred million dollars ($500,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), or (e), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of such bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

CHAPTER 909

An act to amend Sections 9353, 20952.5, 21153, and 75005 of, and to add Sections 20013.5, 20652.1, and 50979 to, the Government Code, relating to public retirement systems.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 9353 of the Government Code is amended to read:

9353. This system shall be administered by the Board of Administration of the Public Employees' Retirement System. The board shall administer this system in accordance with the provisions of the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in the Legislator's Retirement Law, except for those provisions which provide for the payment of an allowance or other benefit and except for those provisions which conflict with any provision or provisions of the Legislators' Retirement Law.

SEC. 2. Section 20013.5 is added to the Government Code, to read:

20013.5. "Member classification" means either:

(a) Miscellaneous member classification, which includes state miscellaneous members, university members, local miscellaneous members, state industrial members, and school members; or

(b) Safety member classification, which includes patrol members, state safety members, and local safety members.

SEC. 3. Section 20652.1 is added to the Government Code, to

read:

20652.1. For purposes of this article, a member who has been on an unpaid leave of absence for a period of not less than six months shall be considered permanently separated from state service, and the member shall, upon a request by the member, be paid the accumulated contributions of the member if the member continues to be in an unpaid leave status through the date the refund is paid.

SEC. 4. Section 20952.5 of the Government Code is amended to read:

20952.5. Notwithstanding the provisions of Section 20952, a local safety member to whom Section 20952 applies 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.

However, if such member retires before attaining age 55, his prior and current service pensions shall be reduced to that amount which the value of the pensions as deferred to that minimum age will purchase at the actual age of retirement on the basis of the mortality tables and actuarial interest rate in effect with respect to such members.

SEC. 5. Section 21153 of the Government Code is amended to read:

21153. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or any other employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing specialized work of limited duration. Such appointments shall not exceed a total for all employers of 90 working days or 720 hours in any calendar 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.

SEC. 6. Section 50979 is added to the Government Code, to read:

50979. Upon termination of the award system, assets in the fund shall be disbursed in the following order:

(a) An amount sufficient to pay awards shall be retained by the board.

(b) An amount sufficient to pay reasonable administrative expenses shall be retained by the board.

(c) An amount sufficient to pay the General Fund loan shall be paid to the General Fund.

(d) From any balance in the fund after the above amounts have been retained or disbursed, each department's accumulated contributions, less a proportionate share of the amount retained for reasonable administrative expenses, less the amount retained to pay awards of that department's volunteers, shall be refunded to the department.

SEC. 7. Section 75005 of the Government Code is amended to read:

75005. Notwithstanding any other provision of law, the provisions

of this chapter shall be administered and governed by the Board of Administration of the Public Employees' Retirement System in accordance with the provisions of the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in the Judges' Retirement Law, except for those provisions which provide for the payment of an allowance or other benefit and except for those provisions which conflict with any provision of the Judges' Retirement Law. "State Controller" or "Controller" as used in this chapter, or any other provision of law relating to the chapter, shall be construed to refer to and mean the "Board of Administration of the Public Employees' Retirement System"; however, the State Controller shall continue to perform the duties prescribed in Sections 75101 and 75102.

All payments from the Judges' Retirement Fund shall be made upon warrants drawn by the Controller upon demands by the Board of Administration of the Public Employees' Retirement System.

SEC. 8. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 910

An act to amend Section 66462.5 of the Government Code, relating to subdivision maps.

[Became law without Governor's signature. Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 66462.5 of the Government Code is amended to read:

66462.5. A city, county, or city and county shall not postpone or refuse approval of a final map because the subdivider has failed to meet a tentative map condition which requires the subdivider to construct or install offsite improvements on land in which neither the subdivider nor the local agency has sufficient title or interest, including an easement or license, at the time the tentative or final map is filed with the local agency, to permit the improvements to be made. In such cases, the city, county or city and county shall, within 120 days of the filing of the final map, pursuant to Section 66457, acquire by negotiation or commence proceedings pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil

Procedure to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property under Article 3 (commencing with Section 1255.410) of Chapter 6 of such title. In the event a city, county, or city and county fails to meet the 120-day time limitation, the condition for construction of offsite improvements shall be conclusively deemed to be waived. Prior to approval of the final map the city, county, or city and county may require the subdivider to enter into an agreement to complete the improvements pursuant to Section 66462 at such time as the city, county, or city and county acquires an interest in the land which will permit the improvements to be made.

Nothing in this section precludes a city, county, or city and county from requiring a subdivider to pay the cost of acquiring offsite real property interests required in connection with a subdivision.

"Offsite improvements," as used in this section, does not include improvements which are necessary to assure replacement or construction of housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

CHAPTER 911

An act to add Section 65754.5 to the Government Code, relating to local planning.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. The Legislature finds and declares that it is an objective of state government to facilitate the development of more reasonably priced housing in California. In order to accomplish this objective, the Legislature finds that stabilizing the planning process by which this housing is approved by local governments will help to lower housing prices.

The Legislature further finds that local governments, because of the lack of public funds, are increasingly requesting that private developers fund necessary supportive infrastructure in addition to the developers' role in providing new housing stock. The cost of this infrastructure adds to the cost of the final housing stock associated with the infrastructure, as the developers must pass these increased costs on to consumers.

The Legislature recognizes that a judicial decision, holding that the general plan of a city, county, or city and county is inadequate, can prevent the approval and development of housing projects even though the projects are not directly affected by the portions of the general plan found to be inadequate. The Legislature also recognizes

that a court action challenging the adequacy of the general plan of a city, county, or city and county, if not resolved expeditiously, has a chilling effect on the confidence with which developers and local governments can proceed with housing projects. The Legislature further recognizes that extensive delays in adjudicating questions about the adequacy of a local general plan can render development projects previously approved by local governments economically infeasible. The Legislature finds that additional methods are needed to expedite judicial review of challenges to a general plan and to ensure that court actions challenging the adequacy of a general plan do not unnecessarily inhibit the provision of affordable housing.

SEC. 2. Section 65754.5 is added to the Government Code, to read:

65754.5. (a) During the pendency of any action described in Section 65754, or when issuing a final judgment in favor of the plaintiff or petitioner finding that the general plan or any element thereof does not conform to the requirements of Article 5 (commencing with Section 65300), the court shall not enjoin the development of any housing development with respect to which all of the following conditions are met:

(1) The legislative body of the city, county, or city and county has approved a development project, as defined by Section 65928, for housing or a specific plan for the housing development and determined the development project for housing or the specific plan to be consistent with the general plan of the city, county, or city and county.

(2) The legislative body of the city, county, or city and county has certified an environmental impact report or a negative declaration for the development project for housing or for the specific plan for housing pursuant to the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, and no legal action was brought within the applicable statute of limitations period relating to that environmental impact report or negative declaration.

(3) The owner of the land upon which the housing is proposed to be developed, in satisfaction of any requirements imposed and in reliance upon any action taken by the city, county, or city and county pursuant to paragraphs (1) and (2), has irrevocably committed one million dollars ($1,000,000), or more, for public infrastructure, including, but not limited to, roads, and water and sewer facilities.

(4) The proposed housing development may be developed without having an impact upon the city, county, or city and county's ability to implement an adequate housing element or to properly adopt an adequate housing element if the court determines, in the pending action, that the general plan or plan element is inadequate. The court shall apply the provisions of Section 65760 to determine whether a housing development will have an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element.

(b) The provisions of this section shall be applicable to any legal action pending on January 1, 1984, and to every action commenced on or after that date.

(c) This section shall not be construed to preclude a public agency from exercising discretion, in a manner authorized by any other provision of law, to alter plans, zoning, or subsequent development approvals applicable to those lands, or from enacting and enforcing further regulations upon their use.

CHAPTER 912

An act to add and repeal Sections 21080.15 and 21080.16 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 21080.15 is added to the Public Resources Code, to read:

21080.15. (a) This division does not apply to any of the following projects of the Port of Los Angeles:

(1) Berths 212–213, wharf and backland improvements.

(2) Berths 134–139, wharf and backland improvements.

(3) Berths 171–172, liquid bulk wharf.

(4) Berths 228–229, 1,000-foot concrete wharf and 25-acre backland improvements (demolish shed and fill slip).

(5) Berths 174–177, wharf and backland improvements.

(6) Berths 195–200A, wharf and backland improvements.

(b) This division does not apply to the following project of the Port of Long Beach:

(1) Pier A, Berths 6–10, wharf and backland improvements.

(2) Berths 62 and 63, wharf and backland improvements.

(c) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 2. Section 21080.16 is added to the Public Resources Code, to read:

21080.16. (a) This division does not apply to changes in the utilization of prison space which increase the number of inmates per cell, or changes in the prison or prison service facilities associated with those increases, at the new Folsom prison and the Southern Maximum Security Prison at Tehachapi.

(b) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

CHAPTER 913

An act to amend Sections 10652.5, 22654, 22658, and 22851.2 of, and to repeal and add Section 22853 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 10652.5 of the Vehicle Code is amended to read:

10652.5. (a) Whenever the name and address of the legal owner of a motor vehicle is known, or may be ascertained from the registration records in the vehicle or from the records of the Department of Motor Vehicles, no fee or service charge may be imposed upon the legal owner for the parking and storage of the motor vehicle for the period commencing with the 16th day of possession and continuing until written notice by certified mail with return receipt requested is sent to the legal owner by the person in possession of the motor vehicle.

(b) The costs of notifying the legal owner may be charged as part of the storage fee when the motor vehicle has been stored for an indefinite period of time and notice is given no sooner than the third day of possession. This subdivision also applies if the legal owner refuses to claim possession of the motor vehicle.

(c) This section is not applicable to any motor vehicle stored by a levying officer acting under the authority of judicial process, nor to any motor vehicle which has been removed from a highway, or public or private property, by a law enforcement officer or employee of the state and is subject to the procedures described in Sections 22852 and 22854, and subdivision (a), (b), or (c) of Section 22853, if the legal owner is in fact notified by the law enforcement officer or employee of the state or by the Department of Justice.

SEC. 2. 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 the 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).

(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 the 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 the work or service or may remove and store the 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 the 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 the work or service would be done, were placed at least 24 hours prior to the movement or removal and storage.

(e) Whenever any peace officer finds a vehicle parked or standing upon a highway in a manner so as to obstruct necessary emergency services, or the routing of traffic at the scene of a disaster, the officer may move the vehicle or require the driver or other person in charge of the vehicle to move it to the nearest available parking location. If the vehicle is unoccupied, and moving the vehicle to a parking location is impractical, the officer may store the vehicle pursuant to Sections 22850 and 22852 and subdivision (a) or (b) of Section 22853.

If the vehicle so moved or stored was otherwise lawfully parked, no moving or storage charges shall be assessed against or collected from the driver or owner.

SEC. 3. Section 22658 of the Vehicle Code is amended to read:

22658. (a) The owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage, if (1) there is displayed, in plain view at all entrances to the property, a sign of a size specified by ordinance prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency, or (2) the lot or parcel upon which the vehicle is parked is improved with a single family dwelling.

(b) The person causing removal of such vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner thereof, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the person causing removal of a vehicle shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) This section shall not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

(e) Any owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property is liable for any storage or towing charges whenever there has been a failure to post a sign if and as required by subdivision (a).

(f) No person shall cause the removal of any vehicle from a privately owned and operated fee-paid parking facility until at least 12 hours after the expiration of the period for which the fee is paid for the vehicle. This subdivision does not apply to any parking space or stall rented to a person and reserved or otherwise clearly marked or designated for the use of that person.

SEC. 4. Section 22851.2 of the Vehicle Code is amended 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 Stolen Vehicle System of the Department of Justice in Sacramento of the 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 shall be assigned prior to commencing the lien sale proceedings.

SEC. 5. Section 22853 of the Vehicle Code is repealed.

SEC. 6. Section 22853 is added to the Vehicle Code, to read:

22853. (a) Whenever an officer or an employee removing a California registered vehicle from a highway or from public property for storage under this chapter does not know and is not able to ascertain the name of the owner or for any other reason is unable to give notice to the owner as required by Section 22852, the officer or employee shall immediately notify, or cause to be notified, the Department of Justice, Stolen Vehicle System, of its removal. The officer or employee shall file a notice with the proprietor of any public garage in which the vehicle may be stored. The notice shall include a complete description of the vehicle, the date, time, and place from which removed, the amount of mileage on the vehicle at the time of removal, and the name of the garage or place where the vehicle is stored.

(b) Whenever an officer or an employee removing a vehicle not registered in California from a highway or from public property for storage under this chapter does not know and is not able to ascertain the owner or for any other reason is unable to give the notice to the owner as required by Section 22852, the officer or employee shall immediately notify, or cause to be notified, the Department of Justice, Stolen Vehicle System. If the vehicle is not returned to the owner within 120 hours, the officer or employee shall immediately send, or cause to be sent, a written report of the removal by mail to the Department of Justice at Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that

department and shall include a complete description of the vehicle, the date, time, and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, the grounds for removal, and the name of the garage or place where the vehicle is stored.

(c) Whenever an officer or employee or private party removing a vehicle from private property for storage under this chapter does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as required by Section 22852 and if the vehicle is not returned to the owner within a period of 120 hours, the officer or employee or private party shall immediately send, or cause to be sent, a written report of the removal by mail to the Department of Justice at Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that department and shall include a complete description of the vehicle, the date, time, and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, the grounds for removal, and the name of the garage or place where the vehicle is stored.

SEC. 7. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 8. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 914

An act to amend Sections 6546.6, 6547, and 6571 of the Government Code, relating to joint exercise of powers.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 6546.6 of the Government Code is amended to read:

6546.6. In any county with a population determined by the last official census of 4,000,000 or more, any agency, commission, or board provided for by joint powers agreement entered into by cities

pursuant to Article 1 (commencing with Section 6500) for the purpose of the acquisition of land, design, engineering, construction, operation, maintenance, improvement, and administration of an intermodal container transfer facility, may carry out that purpose and may authorize the issuance of revenue bonds, pursuant to this article, to pay for acquiring the land, designing, engineering, constructing, and improving that project, including all facilities, improvements, and all expenses incidental thereto or connected therewith.

The power to issue revenue bonds under this section shall be of no further force and effect after December 31, 1995, unless (1) the entity has initially issued revenue bonds on or prior to December 31, 1995, or (2) the entity is unable to initially issue revenue bonds to accomplish the purpose of this section by reason of litigation relating to the initial issuance, in which case the power to initially issue revenue bonds under this section shall continue to be effective until the final determination of that litigation and for one year thereafter. If the entity has initially issued revenue bonds within either of the time periods permitted by the prior sentence of this paragraph, the power to issue subsequent issues of revenue bonds under this section shall continue so long as this section shall be in effect.

SEC. 2. 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 or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, 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 or a project for the disposal, treatment, or conversion to energy and

reusable materials of solid waste, or a project for an intermodal container transfer facility, 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 or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, 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.

Notwithstanding the requirement that parties to a joint powers agreement authorize the issuance of revenue bonds, in the case of a project which consists of the generation or transmission of electric energy financed in whole or in part by the issuance of revenue bonds, only those local agencies which contract to make payments to be applied to the payment of the revenue bonds shall be required to authorize the issuance of such revenue bonds.

SEC. 3. 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, a project for the disposal, treatment, or conversion of energy and reusable materials of solid waste, or a project for a purpose specified in Section 6546.6, or a project for an intermodal container transfer facility specified in Section 6546.6, 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, a project for the development and construction of an intermodal container transfer facility specified in Section 6546.6, 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 the 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.

CHAPTER 915

An act to amend Sections 37201, 37228, and 41601 of the Education Code, relating to schools.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 37201 of the Education Code is amended to read:

37201. (a) A school month is 20 days or four weeks of five days each, including legal holidays but excluding weekend makeup classes pursuant to Section 37228. For the purposes of counting attendance only in providing for a school calendar the Christmas vacation period, or any portion thereof, may be excluded by the school district in the definition of a school month.

(b) The provisions of subdivision (a) of this section are limited to defining a school month for attendance-counting purposes only. A school month for employee pay purposes may be designated by the governing board to begin on any day of the week.

SEC. 2. Section 37228 of the Education Code is amended to read:

37228. The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on Saturday or Sunday, or both.

The classes may include, but are not limited to, continuation classes, special day classes for mentally gifted minors, makeup classes for unexcused absences occurring during the week, and the programs of a regional occupational center or regional occupational program.

Except as otherwise provided in this code, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for the pupil per week.

Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil. However, the governing board may require truants, as defined by Section 48620, to attend makeup classes conducted on one day of a weekend.

Except as otherwise provided in this code, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday through Friday school week.

The voluntary attendance of pupils in approved programs for mentally gifted minors, as defined in Section 52200, in special educational activities conducted on Saturday or Sunday shall not be included in the computation of the average daily attendance of the district.

SEC. 3. 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 and exclusive of weekend makeup classes pursuant to Section 37228.

(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.

CHAPTER 916

An act to amend Sections 7521, 7521.5, 7522, 7525, 7526.1, 7530, 7531, 7533, 7538, and 7560 of, to repeal and add Sections 7522, 7523, 7525.1, 7528, 7529, 7537, 7539, 7541, and 7565 to, and to add Sections 7512.10, 7512.11, 7512.12, 7517, 7519, 7520.5, 7521.6, and 7523.5 to, the Business and Professions Code, relating to the Private Investigator Act.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 7512.10 is added to the Business and Professions Code, to read:

7512.10. As used in this chapter, "employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

SEC. 1.3. Section 7512.11 is added to the Business and Professions Code, to read:

7512.11. As used in this chapter, "employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control.

SEC. 1.5. Section 7512.12 is added to the Business and Professions Code, to read:

7512.12. As used in this chapter, "employer-employee" relationship means a relationship in which an individual works for another, the individual's name appears on the payroll records of the employer, and the employee is under the direction and control of the employer.

SEC. 1.7. Section 7517 is added to the Business and Professions Code, to read:

7517. The director shall furnish, at least once every two years, one copy of the current licensing law, rules, and regulations to every licensed business governed under this chapter, without charge. The director may charge and collect a fee equivalent to the cost of producing such documents for each additional copy which may be furnished upon request to any licensee or any applicant for licensure and for each copy furnished on request to any other person.

SEC. 1.8. Section 7519 is added to the Business and Professions Code, to read:

7519. The director shall furnish, at least once every two years, one copy of the current licensing law, rules, and regulations to every licensed business governed under this chapter, without charge. The director may charge and collect a fee equivalent to the cost of producing such documents for each additional copy which may be furnished upon request to any licensee or any applicant for licensure and for each copy furnished on request to any other person.

SEC. 2. Section 7520.5 is added to the Business and Professions Code, to read:

7520.5. A provisional private investigator license may be issued by the director for a period not to exceed 90 days upon proof that the applicant is currently licensed in another state, as a private investigator, which state has similar qualification requirements for licensure and provides reciprocal provisional licensing for California's licensees. The proof required by the director shall be accompanied by payment of fifty dollars ($50.00) plus a set of valid fingerprints. The applicant shall be subject to all provisions of this chapter. The license may be renewed by the director.

SEC. 3. 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 a public utility regulated by the State Public Utilities Commission, 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 or she has been hired or engaged to protect, guard, or watch.

(d) 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.

(e) 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.

(f) A protection dog operator within the meaning of this chapter is any person who, for any consideration whatsoever, engages in business to furnish, or agree to furnish, or train, a protection dog for others. A "protection dog" means any dog trained to guard, protect, patrol or defend any premises, area or yard, or any dog trained to protect, defend or guard any person or property, with or without the necessity of direct human supervision.

SEC. 4. Section 7521.5 of the Business and Professions Code is amended to read:

7521.5. (a) Unless specifically exempted by Section 7522, no person shall engage in the business of private investigator, private patrol operator, or protection dog operator, as defined in Section 7521, unless that person has applied for and received a license to engage in that business pursuant to this chapter.

(b) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter, relating to private investigator licensure, is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

(c) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter relating to private patrol operator licensure, 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.

(d) Any person who engages in any business regulated by this chapter, who acts as or represents himself or herself to be a licensee under this chapter, who falsely represents that he or she is employed by a licensee, or who carries a badge, identification card, or business card, or uses a letterhead or advertises that he or she is a licensee under this chapter, unless such person is licensed under this chapter, is guilty of a misdemeanor, and is punishable by a fine of one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(e) Any person who is convicted of a violation of the provisions of this section shall not be issued a license under this chapter, within

one year following that conviction.

(f) The chief shall gather evidence of violations of this chapter and of any rule or regulation established pursuant to this chapter by persons engaged in the business of private investigator, private patrol operator, or protection dog operator who fail to obtain licenses and shall gather evidence of violations and furnish that evidence to prosecuting officers of any county or city for the purpose of prosecuting all violations occurring within their jurisdiction.

(g) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

SEC. 5. Section 7521.6 is added to the Business and Professions Code, to read:

7521.6. (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of Section 7521.5 may, upon a petition filed by the bureau with the approval of the director, issue an injunction or other appropriate order restraining such conduct. 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.

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of Section 7521.5 may, upon a petition filed by the bureau with the approval of the director, order such person to make restitution to persons injured as a result of the violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

SEC. 6. 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 or her 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 or her duties as such attorney at law.

(g) 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.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(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.

(k) 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.

(*l*) 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 7514.2. 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.

(m) A licensed insurance adjuster in performing his or her duties within the scope of his or her license as an insurance adjuster.

(n) Any savings and loan association subject to the jurisdiction of the Savings and Loan Commissioner or the Federal Home Loan Bank Board.

(o) Any secured creditor engaged in the repossession of collateral and any lessor engaged in the repossession of leased property in which it claims an interest.

SEC. 6.1. Section 7522 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 6.2. Section 7522 is added to the Business and Professions Code, 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 or her 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 or her duties as such attorney at law.

(g) 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.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(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.

(k) 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.

(*l*) 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 7514.2. 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.

(m) A licensed insurance adjuster in performing his or her duties within the scope of his or her license as an insurance adjuster.

(n) Any savings and loan association subject to the jurisdiction of the Savings and Loan Commissioner or the Federal Home Loan

Bank Board.

(o) Any secured creditor engaged in the repossession of collateral and any lessor engaged in the repossession of leased property in which it claims an interest.

SEC. 6.4. Section 7523 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 6.6. Section 7523 is added to the Business and Professions Code, to read:

7523. (a) Unless specifically exempted by Section 7522, no person shall engage in the business of private investigator, private patrol operator, or protection dog operator, as defined in Section 7521, unless that person has applied for and received a license to engage in that business pursuant to this chapter.

(b) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter, relating to private investigator licensure, is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

(c) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter relating to private patrol operator licensure, 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.

(d) Any person who engages in any business regulated by this chapter, who acts as, or represents himself or herself to be, a licensee under this chapter, who falsely represents that he or she is employed by a licensee, or who carries a badge, identification card, or business card, or uses a letterhead or advertises that he or she is a licensee under this chapter, unless such person is licensed under this chapter, is guilty of a misdemeanor and is punishable by a fine of one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(e) Any person who is convicted of a violation of the provisions of this section shall not be issued a license under this chapter, within one year following that conviction.

(f) The chief shall gather evidence of violations of this chapter and of any rule or regulation established pursuant to this chapter by persons engaged in the business of private investigator, private patrol operator, or protection dog operator who fail to obtain licenses and shall gather evidence of violations and furnish that evidence to prosecuting officers of any county or city for the purpose of prosecuting all violations occurring within their jurisdiction.

(g) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jursidiction.

SEC. 6.8. Section 7523.5 is added to the Business and Professions Code, to read:

7523.5. (a) The superior court for the county in which any

person has engaged or is about to engage in any act which constitutes a violation of Section 7523 may, upon a petition filed by the bureau with the approval of the director, issue an injunction or other appropriate order restraining such conduct. 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.

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of Section 7523 may, upon a petition filed by the bureau with the approval of the director, order such person to make restitution to persons injured as a result of the violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

SEC. 7. Section 7525 of the Business and Professions Code is amended to read:

7525. 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) A verified statement of his or her experience qualifications.

(f) If the applicant is an individual, a qualified manager, partner of a partnership or officer of a corporation designated in subdivision (i), one personal identification form provided by the chief upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application together with two legible sets of fingerprints, on a form approved by the Department of Justice, and a personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years and be signed under penalty of perjury.

(g) In addition, if the applicant for license is an individual, the application shall list all other names known as or used during the past 10 years and shall state that the applicant is to be personally and actively in charge of the business for which the license is sought, or if any other qualified manager is to be actively in charge of the business, the application shall be subscribed, verified and signed by the applicant, under penalty of perjury, and if any other person is to be actively in charge of the business, the application shall also be subscribed, verified and signed by that person under penalty of perjury.

(h) If the applicants for license are copartners, the application shall state the true names and addresses of all partners and the name of the partner to be actively in charge of the business for which the license is sought; and list all other names known as or used during the past 10 years, or if a qualified manager other than a partner is to be actively in charge of the business then the application shall be subscribed, verified and signed by all of the partners under penalty of perjury and if any other person is to be actively in charge of the business the application shall also be subscribed, verified, and signed by that person under penalty of perjury, under penalty of perjury or by all of the partners and the qualified manager, or by all of the partners or the qualified manager.

(i) If the applicant for license is a corporation, the application shall state the true names and complete residence addresses of the chief executive officer, chief operating officer and the chief financial officer of the corporation. The application shall also state the name and address of the designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant and by the qualified manager thereof, under penalty of perjury.

(j) Such other information, evidence, statements, or documents as may be required by the director.

SEC. 7.4. Section 7525.1 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 7.6. Section 7525.1 is added to the Business and Professions Code, to read:

7525.1. 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) A verified statement of his or her experience qualifications.

(f) If the applicant is an individual, qualified manager, partner of a partnership or officer of a corporation designated in subdivision (i), one personal identification form provided by the chief upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application together with two legible sets of fingerprints, on a form approved by the Department of Justice, and a personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years and be signed under penalty of perjury.

(g) In addition, if the applicant for license is an individual, the application shall list all other names known as or used during the past 10 years and shall state that the applicant is to be personally and actively in charge of the business for which the license is sought, or

if any other qualified manager is to be actively in charge of the business, the application shall be subscribed, verified, and signed by the applicant, under penalty of perjury, and if any other person is to be actively in charge of the business, the application shall also be subscribed, verified, and signed by that person under penalty of perjury.

(h) If the applicants for license are copartners, the application shall state the true names and addresses of all partners and the name of the partner to be actively in charge of the business for which the license is sought; and list all other names known as or used during the past 10 years, or if a qualified manager other than a partner is to be actively in charge of the business then the application shall be subscribed, verified, and signed by all of the partners under penalty of perjury and if any other person is to be actively in charge of the business the application shall also be subscribed, verified, and signed by that person under penalty of perjury, under penalty of perjury by all of the partners and the qualified manager or by all of the partners or the qualified manager.

(i) If the applicant for license is a corporation, the application shall state the true names, and complete residence addresses of the chief executive officer, chief operating officer and the chief financial officer of the corporation. The application shall also state the name and address of the designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant and by the qualified manager thereof, under penalty of perjury.

(j) Such other information, evidence, statements, or documents as may be required by the director.

SEC. 8. Section 7526.1 of the Business and Professions Code is amended to read:

7526.1. Except as otherwise provided by this section, an applicant, or his or her manager, for a license as a private investigator shall have had at least three years' experience in investigation work or the equivalent thereof as determined by the director.

A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by each applicant preceding the filing of an application.

An applicant who holds a law degree or who has completed a four-year course in police science, criminal justice, criminal law, or the equivalent thereof shall be required to have had two years' experience in investigation work or the equivalent thereof, as determined by the director.

An applicant shall substantiate the claimed years of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may

offer other written certifications from others than employers substantiating employment for consideration by the chief.

SEC. 8.2. Section 7528 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 8.4. Section 7528 is added to the Business and Professions Code, to read:

7528. The chief shall issue a license, the form and content of which shall be determined by the chief in accordance with Section 164. In addition, the chief shall issue a "Certificate of Licensure" to any licensee, upon request and upon the payment of a fee of twenty-five dollars ($25).

SEC. 8.6. Section 7529 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 8.8. Section 7529 is added to the Business and Professions Code, to read:

7529. Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the director 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. The card shall contain the signature of the licensee, signature of the chief, and a photograph of the licensee, or bearer of the card, if the licensee is other than an individual, and clearly state that the person is licensed as a private investigator, private patrol operator, or protection dog operator or is the manager or officer of the licensee. 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 bureau for cancellation.

SEC. 9. Section 7530 of the Business and Professions Code is amended to read:

7530. Where 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 director shall provide by regulation, provided that application for permission to carry on the business is made to the chief within 90 days after the cessation, and the application is approved by the chief.

In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for a reasonable length of time as the director shall provide by regulation, provided that application for permission is made to the chief within 90 days following the death of the licensee, and the application is approved by the chief.

A license extended under this section is subject to all other provisions of this chapter.

SEC. 10. Section 7531 of the Business and Professions Code is amended to read:

7531. The chief shall issue a license, the form and content of which shall be determined by the chief in accordance with Section 164. In addition, the chief shall issue a "Certificate of Licensure" to any licensee, upon request and upon the payment of a fee of twenty-five dollars ($25).

SEC. 11. Section 7533 of the Business and Professions Code is amended to read:

7533. Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the director 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. The card shall contain the signature of the licensee, signature of the chief, and a photograph of the licensee, or bearer of the card, if the licensee is other than an individual, and clearly state that the person is licensed as a private investigator, private patrol operator or protection dog operator or is the manager or officer of the licensee. When any person to whom a card is issued terminates his 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 bureau for cancellation.

SEC. 11.2. Section 7537 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 11.4. Section 7537 is added to the Business and Professions Code, to read:

7537. (a) Except as provided in subdivision (c), where 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 director shall provide by regulation, provided that application for permission to carry on the business is made to the chief within 90 days after the cessation, and application is approved by the chief.

(b) In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for a reasonable length of time as the director shall provide by regulation, provided that application for permission is made to the chief within 90 days following the death of the licensee, and the application is approved by the chief.

(c) If the manager, who has qualified as provided in Section 7536, ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the bureau 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 director pending the qualifications of another

manager as provided in the chapter. If the licensee fails to notify the bureau 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 be due, and the qualification of a manager as provided in this chapter.

(d) A license extended under this section is subject to all other provisions of this chapter.

SEC. 12. 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 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 so to do, 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 private investigator 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 or she 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, partner, qualified manager, or employee shall use any identification to indicate that he or she is licensed as a private investigator other than the official identification card issued by the bureau or the business card regularly used by the business. However, a licensee may issue an employer identification card.

(g) No licensee, or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof, except premises commonly accessible to the public, 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 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 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.

(j) 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.

(k) 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.

(*l*) No licensee shall use a fictitious name in connection with the official activities of the licensee's business.

SEC. 12.2. Section 7539 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 12.4. Section 7539 is added to the Business and Professions Code, to read:

7539. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or 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 so to do, 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 private investigator 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 or she 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, partner, qualified manager, or employee shall use any identification to indicate that he or she is licensed as a private investigator other than the official identification card issued by the bureau or the business card regularly used by the business. However, a licensee may issue an employer identification card.

(g) No licensee or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof, except premises commonly accessible to the public, 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 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 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.

(j) 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.

(k) 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.

(*l*) No licensee shall use a fictitious name in connection with the official activities of the licensee's business.

SEC. 12.6. Section 7541 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 12.8. Section 7541 is added to the Business and Professions Code, to read:

7541. Except as otherwise provided by this section, an applicant, or his or her manager, for a license as a private investigator shall have had at least three years' experience in investigation work or the equivalent thereof as determined by the director.

A year's experience shall consist of not less than 2,000 hours of

actual compensated work performed by each applicant preceding the filing of an application.

An applicant who holds a law degree or who has completed a four-year course in police science, criminal justice, criminal law, or the equivalent thereof shall be required to have had two years' experience in investigation work or the equivalent thereof, as determined by the director.

An applicant shall substantiate the claimed years of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from others than employers substantiating employment for consideration by the chief.

SEC. 13. Section 7560 of the Business and Professions Code is amended to read:

7560. Any person who knowingly falsifies the fingerprints or photographs submitted pursuant to any provision of this chapter 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 one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

SEC. 13.2. Section 7565 of the Business and Professions Code, as added by Senate Bill No. 723, is repealed.

SEC. 13.4. Section 7565 is added to the Business and Professions Code, to read:

7565. Any person who knowingly falsifies the fingerprints or photographs submitted pursuant to any provision of this chapter is guilty of a felony. Any person who violates any of the other provisions of this chapter is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

SEC. 13.6. Sections 1.8, 6.1, 6.2, 6.4, 6.6, 6.8, 7.4, 7.6, 8.2, 8.4, 8.6, 8.8, 11.2, 11.4, 12.2, 12.4, 12.6, 12.8, 13.2, and 13.4 of this act shall become operative, and Sections 1.7, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of this act shall not become operative, only if Senate Bill No. 723 is chaptered before this bill, and repeals and adds Chapter 11.5 (commencing with Section 7512) to Division 3 of the Business and Professions Code.

SEC. 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 917

An act to add Section 14533.5 to the Government Code, relating to transportation.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 14533.5 is added to the Government Code, to read:

14533.5. (a) The department shall advance funds to a metropolitan transit development board for an exclusive public mass transit guideway project when all of the following conditions exist:

(1) The commission has allocated the funds pursuant to Section 14533 of this code and in accordance with Section 99317 of the Public Utilities Code or Section 199 of the Streets and Highways Code.

(2) The financing plan and the schedule for the project have been approved by the department pursuant to Section 14085.

(3) The department and the board have entered into a fund transfer agreement which specifies the terms of the advance and the procedure for periodic reimbursement of actual costs incurred for the project.

(4) The board has demonstrated to the satisfaction of the department that the advance is required to pay current expenses on the project for which the allocation is authorized.

(5) The advance does not exceed 10 percent of the allocation authorized.

(6) The advance will not jeopardize the timely discharge of the other commitments against the account in the State Transportation Fund from which the advance is made.

(b) If, upon completion of the project, the advance of funds, together with interest on the advance of funds earned for the full period of the advance equivalent to the average rate earned by investments in the Pooled Money Investment Account during the same period, exceeds that portion of the actual reimbursable costs for which the metropolitan transit development board has not been reimbursed, the metropolitan transit development board shall repay the excess amount to the state for deposit in the account from which the advance was made.

CHAPTER 918

An act to amend Section 54237 of, and to add Section 54237.5 to, the Government Code, relating to surplus state lands.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 54237 of the Government Code is amended to read:

54237. (a) Notwithstanding Section 11011.1, any agency of the state disposing of surplus residential property shall do so in accordance with the following priorities and procedures:

(1) First, all single family residences presently occupied by their former owners shall be offered to such former owners at the appraised fair market value.

(2) Second, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property two years or more and who are persons and families of low or moderate income.

(3) Third, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property five years or more and whose household income does not exceed 150 percent of the area median income.

(b) Single-family residences offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) shall be offered to such present occupants at an affordable price, which price shall not be less than the price paid by the agency for original acquisition, unless the acquisition price was greater than the current fair market value, and shall not be greater than fair market value. When such single-family residences are offered to present occupants at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions to assure that such housing will remain available to persons and families of low or moderate income and households with incomes no greater than the incomes of the present occupants in proportion to the area median income. The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for such prices, terms, conditions and restrictions. The selling agency shall provide repairs required by lenders and government housing assistance programs, or, at the option of the agency, provide the present occupants with a replacement dwelling pursuant to Section 54237.5.

(c) If single-family residences are offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) the occupants shall certify their income to the selling agency. When such single-family residences are offered to present occupants at a price which is less than fair market value, the selling agency may verify such certifications, in accordance with procedures utilized for verification of incomes of purchasers and occupants of housing financed by the California Housing Finance Agency. The income limitations and term of residency requirements of paragraphs (2)

and (3) of subdivision (a) shall not apply to sales that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code, if such study was initiated prior to the enactment of this measure.

(d) All other surplus residential properties, and all properties described in paragraphs (1), (2), and (3) of subdivision (a) which are not purchased by the former owners or the present occupants shall be then offered to housing-related private and public entities at a reasonable price, which is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low or moderate income, on the condition that the purchasing entity shall cause the property to be rehabilitated and developed as limited equity cooperative housing with first right of occupancy to present occupants, except that where the development of such cooperative or cooperatives is not feasible, the purchasing agency shall cause the property to be used for low and moderate income rental or owner-occupied housing, with first right of occupancy to the present tenants. The price of the property in no case shall be less than the price paid by the agency for original acquisition unless the acquisition price was greater than current fair market value, and shall not be greater than fair market value. Subject to the foregoing, it shall be set at the level necessary to provide housing at affordable rents and affordable prices for present tenants and persons and families of low or moderate income. When such residential property is offered at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions as will assure that such housing will remain available to persons and families of low or moderate income. The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for such prices, terms, conditions and restrictions.

(e) Any surplus residential properties not sold pursuant to subdivisions (a) to (d), inclusive, shall then be sold at fair market value, with priority given first to purchasers who are present occupants and then to purchasers who will be owner occupants.

SEC. 2. Section 54237.5 is added to the Government Code, to read:

54237.5. Notwithstanding the requirement to provide repairs in subdivision (b) of Section 54237, the selling agency may, at its option, provide the present occupants with a replacement dwelling if all of the following conditions exist:

(a) Providing a replacement dwelling is less expensive than providing the repairs required by subdivision (b) of Section 54237.

(b) The replacement dwelling is determined to have all of the following characteristics:

(1) Is decent, safe, and sanitary.

(2) Is suitable to the occupancy needs of the household as provided under regulations of the United States Department of

Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937.

(3) Is open to all persons regardless of race, color, religion, sex, or national origin and consistent with requirements of Title 8 of the Civil Rights Act of 1978.

(4) Is in an area not generally less desirable than the dwelling to be acquired in regard to public utilities and public and commercial facilities.

(5) Is reasonably accessible to the displaced person's place of employment.

(6) Is in an equal or better neighborhood.

(7) Is affordable, as defined in subdivision (a) of Section 54236, to the displaced person.

(c) The offer is made at an affordable price that is not less than the price paid by the agency for original acquisition of the unit now occupied by the displaced person or the replacement unit, whichever is less, and is not more than market value.

(d) The replacement dwelling is a newly constructed or a vacant residential unit. No resident shall be displaced pursuant to Section 7260 for the purpose of creating a replacement unit.

CHAPTER 919

An act to add Section 3208.1 to the Public Resources Code, relating to oil and gas.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 3208.1 is added to the Public Resources Code, to read:

3208.1. To prevent, as far as possible, damage to life, health, and property, the supervisor may order the reabandonment of any previously abandoned well when the future construction of any structure over or in the proximity of the well could result in a hazard. Cost of reabandonment operations shall be the responsibility of the owner of the property upon which the structure will be located. This section does not preclude the application of Article 4.2 (commencing with Section 3250).

CHAPTER 920

An act to add Chapter 9 (commencing with Section 16000) to Division 8 of the Unemployment Insurance Code, relating to training and employment for older Californians.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Chapter 9 (commencing with Section 16000) is added to Division 8 of the Unemployment Insurance Code, to read:

CHAPTER 9. TRAINING AND EMPLOYMENT PROGRAMS FOR OLDER CALIFORNIANS

Article 1. General Provisions

16000. This chapter shall be known and may be cited as the Training and Employment Programs for Older Californians Act of 1983.

16001. In enacting the Training and Employment Programs for Older Californians Act of 1983, the Legislature finds and declares that the number of persons 55 and older has steadily increased during the period 1970–1981, while the civilian labor force participation of persons 55–64 years old declined from 5 percent in 1970, to 3 percent in 1981. This decline reflects several significant factors, including the following:

(a) New technologies, which have made individuals' job skills obsolete.

(b) The continuing pattern of age discrimination in employment.

(c) Withdrawal of many older persons from the labor force due to discouragement at the lack of employment opportunities.

16002. It is the intent of the Legislature that services and activities undertaken pursuant to this chapter shall be provided pursuant to Title I, Section 124 of the federal Job Training Partnership Act of 1982 (Public Law 97-300). These programs are to be developed through the State Job Training Coordinating Council in conjunction with private industry councils, in service delivery areas designated within the state in accordance with the federal act, and are to be designed to assure the training and placement of economically disadvantaged older individuals, aged 55 and above, in employment opportunities with private business concerns. Provisions for carrying out this responsibility include the following:

(a) Following consultation with appropriate private industry councils and chief elected officials, the State Job Training Coordinating Council shall recommend to the Governor agreements with public agencies, nonprofit private organizations, and private

business concerns.

(b) Consideration is to be given to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

Article 2. Programs

16005. Programs which shall be considered for provision by eligible service delivery areas pursuant to the state's implementation of the federal Job Training Partnership Act of 1982 shall include, but not be limited to, the following:

(a) Programs which increase the involvement of the private sector in training older workers, through use of business and industry facilities, equipment, and trainers in preparing older individuals for employment.

(b) Programs which communicate among private sector employers effective methods for training and hiring older workers, including materials suitable for use by small businesses.

(c) Utilization of ridesharing and other transportation alternatives to expand the range of employment opportunities available to older workers.

(d) New approaches to the use of alternate work schedules to expand private sector employment opportunities for older workers. These alternatives might include part-time work, flexible scheduling, or job sharing.

(e) Implementation of programs at the worksite or senior service site which foster sharing of skills, knowledge, and capabilities among seniors and youth.

(f) Projects which involve older workers and youth jointly in employment and training opportunities while also delivering necessary community, human, and personal services.

(g) Programs developing existing resources, such as aging network focal points, which have high involvement of senior citizens as workers, volunteers, and participants, and which foster either of the following:

(1) An increased ability on the part of these programs to train, employ, serve, and provide skills to older persons.

(2) An increase in contact and cooperation between these programs and the private sector.

(h) On-the-job training vouchers which offset the added costs of hiring and training older workers.

(i) Additional innovative approaches which encourage greater private sector participation in providing employment and training opportunities for older workers and which promote more stable employment for these workers.

(j) Programs fostering coordination with other resources, public and private, enhancing employment and training opportunities for older Californians.

Article 3. Program Funding

16010. The funding of programs developed under this chapter shall be subject to the same conditions applicable to the distribution of other federal funds allocated to the state for employment and training services provided pursuant to this division which are not required by federal law to be distributed to local service delivery areas on a formula basis.

CHAPTER 921

An act to add Section 53077 to the Government Code, relating to local agencies.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 53077 is added to the Government Code, to read:

53077. If a local agency requires the payment of a fee in order to provide for an improvement to be constructed to serve a residential development as a condition to approving that development, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned on the fund shall also be deposited in that fund and shall be expended only for the purpose for which the fee was originally collected, except that the requirements of this sentence shall not apply to interest on the fees paid pursuant to Section 66477 until January 1, 1985.

For purposes of this section, "local agency" means a county, city, city and county, school district, special district, or any other municipal public corporation or district.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 922

An act to amend Section 56862 of, and to add Section 56857 to, the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 56857 is added to the Education Code, to read:

56857. Nothing in this chapter shall preclude the State Departments of Developmental Services and Mental Health from contracting with a local public education agency, a nonpublic, nonsectarian school, or another 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. These contracts shall not involve funds appropriated for purposes of community-based special education programs provided for state hospital pupils pursuant to this chapter.

SEC. 2. Section 56862 of the Education Code is amended to read:

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 an annual 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.

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 ensure that individuals with exceptional needs residing in state hospitals are provided special education in the most efficient and cost-effective manner, it is necessary that this bill take effect immediately.

CHAPTER 923

An act to add Sections 20203.3 and 31588.2 to, and to add and repeal Section 20021.85 of, the Government Code, relating to public employees' retirement systems.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 20021.85 is added to the Government Code, to read:

20021.85. "County peace officer" shall also include persons who were employed by a county juvenile probation department for more than 25 years in various classifications including deputy probation officer, administrative assistant, administrative services officer, and administrative service manager.

The provisions of this section shall not apply to the employees of any contracting agency nor to the agency unless and until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board made as provided in Section 20461.5 or by express provision in its contract. The section may be made applicable to persons who were retired prior to the effective date of the amendment, and benefits shall be adjusted retroactively if the section is made applicable to these persons.

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 that date.

SEC. 2. Section 20203.3 is added to the Government Code, to read:

20203.3. Notwithstanding any other provision of law, no funds in the retirement fund shall be expended for any purpose other than the cost of administration of the system, investments for the benefit of the system, and the provision of benefits to the members and retired members of the system and their survivors and beneficiaries.

SEC. 3. Section 31588.2 is added to the Government Code, to read:

31588.2. Notwithstanding any other provision of law, no funds in the retirement fund shall be expended for any purpose other than the expense of administration of the system, investments for the benefit of the system, and the provision of benefits to the members and retired members of the system and their survivors and beneficiaries.

SEC. 4. The Legislature hereby declares that Section 1 of this act is only intended to clarify a previously enacted statute. Therefore, this act does not constitute a change in, but is declaratory of, the existing law.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement 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 924

An act to amend Section 65570 of the Government Code, relating to planning.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 65570 of the Government Code is amended to read:

65570. (a) The Director of Conservation may establish, after notice and hearing, rules and regulations, and require reports from local officials and may employ, borrow, or contract for such staff or other forms of assistance as are reasonably necessary to carry out the provisions of this section, Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2, and Section 612 of the Public Resources Code. In carrying out his or her duties under those sections, it is the intention of the Legislature that the director shall consult with the Director of Food and Agriculture and the Director of Planning and Research.

(b) By November 1 of each year, the Department of Conservation shall collect or acquire information on the amount of land converted to or from agricultural use in the previous fiscal year (July 1-June 30) for every county for which Important Farmland Series maps exist. By December 31 of each year, the department shall report to the Legislature on the data collected pursuant to this section. In reporting, the department shall specify, by category of agricultural land, the amount of land converted to or from agricultural use, by county and on a statewide basis. The department shall also report on the nonagricultural uses to which these agricultural lands were converted or committed.

For the purposes of this section, the following definitions apply unless otherwise specified:

(1) "Important Farmland Series maps" means those maps compiled by the United States Soil Conservation Service and updated and modified by the Department of Conservation.

(2) "Category of agricultural land" means prime farmland,

farmland of statewide importance, unique farmland, and farmland of local importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and grazing land. "Grazing land" means land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock.

(3) "Amount of land converted to agricultural use" means those lands which were brought into agricultural use or reestablished in agricultural use and were not shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation and current to the previous July 1.

(4) "Amount of land converted from agricultural use" means those lands which were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation and current to the previous July 1.

(c) By July 1 of each year, the Department of Conservation shall update and send counties copies of Important Farmland Series maps current to the previous July 1. Counties may, until September 1 of each year, review the maps and notify the department of any changes in agricultural land pursuant to subdivision (b) that occurred during the previous fiscal year, and note and request correction of any discrepancies or errors in the classification of agricultural lands on the maps. The department shall make those corrections requested by counties. The department shall provide staff assistance, as available, to collect or acquire information on the amount of land converted to or from agricultural use in the previous fiscal year for those counties for which Important Farmland Series maps exist.

(d) The Legislature finds that the purpose of the Important Farmland Series map is not to consider the economic viability of agricultural lands or their current designation in the general plan. The purpose of the maps shall be limited to preparation of an inventory of agricultural lands, as defined in this chapter, as well as land already committed to future urban or other nonagricultural purposes.

CHAPTER 925

An act to amend Sections 4050.6, 4050.7, 4054, 4232, and 4416 of, and to add Sections 4332 and 4366 to, the Business and Professions Code, and to amend Section 11127 of, and to repeal Sections 11120 and 11121 of, the Health and Safety Code, relating to drugs.

[Approved by Governor September 19, 1983 Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 4050.6 of the Business and Professions Code is amended to read:

4050.6. Each person applying for an exemption under the provisions of Section 4050.5 or 4050.7 shall pay to the executive secretary of the board the fees provided for in subdivision (h) of Section 4416.

SEC. 2. Section 4050.7 of the Business and Professions Code is amended to read:

4050.7. Section 4050 shall not apply to a manufacturer, wholesaler, or other supplier of hemodialysis drugs and devices distributed directly to patients if the board shall find that sufficient, qualified supervision is employed by such manufacturer, wholesaler, or supplier adequately to safeguard and protect the public health.

SEC. 3. Section 4054 of the Business and Professions Code is amended to read:

4054. (a) Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs or chemicals, or for the dispensing of prescriptions of medical practitioners, shall be in charge of a registered pharmacist.

(b) Every pharmacy shall designate a pharmacist-in-charge. The pharmacist-in-charge shall be responsible for a pharmacy's compliance with laws and regulations, both state and federal, pertaining to the practice of pharmacy.

(c) Any nonpharmacist owner who commits any act which would subvert or tends to subvert the efforts of the pharmacist-in-charge to comply with the laws governing the operation of the pharmacy is guilty of a misdemeanor.

SEC. 4. Section 4232 of the Business and Professions Code is amended to read:

4232. All records of manufacture and of sale, purchase or disposition of dangerous drugs shall be at all times, during business hours, open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 3

(commencing with Section 1620) of Division 2 of, Chapter 2 (commencing with Section 2300) of Division 3 of, or Part 2 (commencing with Section 5699) of Division 6 of, the Welfare and Institutions Code who maintains a stock of dangerous drugs.

The owner, officer, and partner of any pharmacy shall be jointly responsible, with the pharmacist-in-charge, for maintaining the records and inventory described in this section.

The pharmacist-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee which violate this section and of which the pharmacist-in-charge had no knowledge, or in which he or she did not knowingly participate.

Any person who fails, neglects, or refuses to maintain such records or who, when called upon by an authorized officer or a member of the board, fails, neglects or refuses to produce such records within a reasonable time, or who willfully produces or furnishes records which are false, is guilty of a misdemeanor.

SEC. 5. Section 4332 is added to the Business and Professions Code, to read:

4332. All wholesalers and manufacturers licensed by the board shall report to the board all sales of dangerous drugs and controlled substances which are subject to abuse as determined by the board.

SEC. 6. Section 4366 is added to the Business and Professions Code, to read:

4366. (a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of a charge involving a significant violation of Section 4350.5 which is also a violation of Section 4227, 4232, or 4390 or Section 11153, 11173, or 11368 of the Health and Safety Code or subdivision (a) of Section 1306.04 of Title 21 of the Code of Federal Regulations, to pay to the board a sum not to exceed the reasonable costs of the investigation and prosecution of the case and, in any case, not to exceed twenty-five thousand dollars ($25,000).

(b) In the case of a pharmacy or wholesaler, the order may be made as to the corporate owner, if any, and as to any pharmacist, officer, owner, or partner of the pharmacy or wholesaler who is found to have had knowledge of or have knowingly participated in one or more of the violations set forth in this section.

(c) The costs to be assessed shall be fixed by the administrative law judge and shall not be increased by the board; where the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase any assessed costs.

(d) Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any probationer directed to pay costs.

(e) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

SEC. 7. Section 4416 of the Business and Professions Code is amended to read:

4416. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the following schedule:

(a) The fee for a nongovernmental pharmacy license shall be fixed by the board at an amount not to exceed three hundred dollars ($300) for each pharmacy.

The fee for a nongovernmental pharmacy annual renewal shall be fixed by the board at an amount not to exceed one hundred fifty dollars ($150).

(b) The fee for processing remodeling plans and inspecting a remodeled pharmacy shall be fixed by the board at an amount not to exceed one hundred dollars ($100).

(c) The fee for the pharmacist examination shall be fixed by the board at an amount not to exceed one hundred thirty dollars ($130).

(d) The fee for regrading an examination shall be fixed by the board at an amount not to exceed eighty-five dollars ($85). If an error in grading is found and the applicant passes the examination, the regrading fee shall be refunded.

(e) The fee for a pharmacist license and biennial renewal shall be fixed by the board at an amount not to exceed one hundred dollars ($100).

(f) The fee for a wholesaler permit and annual renewal shall be fixed by the board at an amount not to exceed five hundred dollars ($500). The permit shall be renewed before the 31st day of December.

(g) The fee for a hypodermic license and renewal shall be fixed by the board at an amount not to exceed seventy-five dollars ($75).

(h) The fee for examination and investigation for an exemption certificate under Sections 4050.5 and 4050.7 shall be fixed by the board at an amount not to exceed fifty dollars ($50).

(i) The fee for an exemption certificate and annual renewal under Sections 4050.5 and 4050.7 shall be fixed by the board at an amount not to exceed one hundred dollars ($100). The permit shall be renewed before the 31st day of December.

(j) The fee for an out-of-state drug distributor's license and annual renewal issued pursuant to Section 4084.6 shall be fixed by the board at an amount not to exceed five hundred dollars ($500).

(k) The fee for registration and annual renewal of providers of continuing education shall be set by the board at an amount not to exceed one hundred dollars ($100). The registration shall be renewed before the first day of September.

(*l*) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars ($40) per course hour.

(m) The fee for evaluation of applications submitted by graduates of foreign colleges of pharmacy or colleges of pharmacy not recognized by the board shall be set by the board at an amount not to exceed one hundred fifty dollars ($150).

(n) The fee for an intern license or extension shall be fixed by the board at an amount not to exceed fifty dollars ($50).

(o) The board may, by regulation, provide for the waiver or refund of the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next succeeding regular renewal date.

(p) The penalty for failure to pay any renewal fee may be fixed by the board at an amount not to exceed 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(q) The fee for the reissuance of any permit, license, or certificate, or renewal thereof, which has been lost or destroyed or which must be reissued because of a change in the information is thirty dollars ($30).

(r) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(s) The fee for any applicant for a clinic permit shall be fixed by the board at an amount not to exceed three hundred dollars ($300) for each permit. The annual fee for renewal of the permit shall be fixed by the board at an amount not to exceed one hundred fifty dollars ($150) for each permit.

SEC. 8. Section 11120 of the Health and Safety Code is repealed.

SEC. 9. Section 11121 of the Health and Safety Code is repealed.

SEC. 10. Section 11127 of the Health and Safety Code is amended to read:

11127. (a) The provisions of this article shall apply only to licenses issued by the Board of Pharmacy for warehouses which store controlled substances.

(b) The Board of Pharmacy shall have authority to issue licenses for warehouses which store controlled substances. Such licenses shall be issued in accordance with the provisions of this chapter and regulations adopted by the board pursuant thereto. All licenses issued by the Board of Pharmacy shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the Board of Pharmacy shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.

(c) Each application for a new or renewal license shall be accompanied by a fee which shall be fixed by the Board of Pharmacy

at an amount not to exceed two hundred dollars ($200). The application shall be made upon a form furnished by the Board of Pharmacy. It shall contain such information concerning the background of the applicant and his experience which the Board of Pharmacy may prescribe, in addition to any other information required by law.

SEC. 11. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction 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 926

An act relating to water districts and, in this connection, to create the Colusa County Flood Control and Water Conservation District to provide for water conservation, development of water resources, and control of drainage, storm, flood, and other waters, and prescribing its organization, powers, and duties.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. SHORT TITLE

SECTION 1. This act shall be known and may be cited as the Colusa County Flood Control and Water Conservation District Act.

CHAPTER 2. LEGISLATIVE INTENT

SEC. 20. The Legislature hereby finds that the water and drainage problems in Colusa County require countywide water conservation, development of water resources, and control of drainage, storm, flood, and other waters. The Legislature finds that these problems are not general or statewide. The Legislature further finds that agricultural and residential development over widespread portions of the county have created drainage problems which cannot be economically resolved through existing public entities within the county, that to adequately and feasibly conserve the water supply and control the drainage, storm, flood, and other waters of the

county, it is necessary to have a political entity coextensive with the geographical limits of the entire county, and that the geography of the county is such that there are numerous drainage areas and noncontiguous watersheds therein. Investigation having shown conditions in the county to be peculiar to it, it is hereby declared that a general law cannot be made applicable to the county and that the enactment of this special law is necessary for the conservation, development, control, and use of water for the public good and for the protection of life and property within the county.

CHAPTER 3. CREATION AND TERRITORY

SEC. 40. A flood control and water conservation district is hereby created to be called the Colusa County Flood Control and Water Conservation District. The district shall consist of all of the territory of the County of Colusa lying within the exterior boundaries of the county.

CHAPTER 4. DEFINITIONS

SEC. 60. "Board of directors" means the board of directors of the district.

SEC. 61. "Board of supervisors" means the board of supervisors of the county.

SEC. 62. "County" means the County of Colusa of the State of California.

SEC. 63. (a) For "resident voter elections," an "eligible voter" means any voter qualified to vote at county elections. "Resident voter election" means any election (1) to be held districtwide, (2) for the election of members of the board of directors, (3) to be held wholly or in part within the boundaries of an incorporated city, or (4) to be held within an area in which there are more than 100 persons qualified to vote at county elections at the time the resolution calling the election is adopted.

(b) For "landowner voter elections," an "eligible voter" means, a person who owns land within the area in which an election is to be held or the legal representative of the owner of land in the area in which the election is to be held. "Landowner voter election" means any district election other than an election specified in subdivision (a).

(c) For the purpose of determining the existence of a majority protest at hearings conducted in accordance with this act, "a majority in number of the eligible voters" shall mean (1) a majority of the voters residing within the affected area who are qualified to vote at county elections as of the date of the hearing for proposals in which the affected area (i) includes the entire district, (ii) includes in whole or in part an incorporated city, or (iii) has more than 100 persons qualified to vote at county elections, and (2) persons owning a majority of the assessed value of land within the area affected by

the proposal, for proposals affecting areas other than those specified in paragraph (1).

SEC. 64. "Evidence of indebtedness" means any warrant, note, or other evidence of indebtedness of the district or any zone.

SEC. 65. "General district election" means the district election required to be held in each odd-numbered year to choose a successor for each elective officer, the term of whose office will expire at noon on the last Friday in November following the general district election.

SEC. 66. "Legal representative" means an official of a corporation, partnership, or any other nonpublic entity or association which owns land within the district, and means a guardian, executor, or administrator of the estate of the owner of land within the district who is appointed under the laws of this state, is entitled to possession of the estate's land, or is authorized by the appointing court to exercise the particular right, privilege, or immunity which he or she seeks to exercise.

SEC. 67. "Special election" means an election held within the district, other than the general district election, called to fill a vacancy on the board of directors or to vote on a ballot question.

SEC. 68. "Participating zone" means one of two or more zones benefiting from the same project or projects.

SEC. 69. "Project" means a work and all of the activities related to or necessary for acquisition, construction, operation, and maintenance of a work, including, but not limited to, planning, design, financing, and administration.

SEC. 70. "Work" or "works" shall include, but shall not be limited to, any of the following: reservoirs, dams, and all conduits and facilities for the control, conservation, diversion, and transmission of water for beneficial uses; drains, levees, and all ditches and facilities for the control and disposal of drainage, storm, and flood waters within the district; power plants, transmission lines, and all facilities for the generation and distribution of hydroelectric power; and all necessary property interests and rights-of-way.

SEC. 71. "Zone" means an improvement district, assessment district, or zone of benefit of the district.

SEC. 72. "Zone election" means an election held entirely within a zone or participating zone, conducted in the manner prescribed by the board of directors.

SEC. 73. "Zone of benefit" means a zone of benefit formed under the provisions of Part 6 (commencing with Section 600).

CHAPTER 5. GENERAL PROVISIONS

SEC. 80. The Knox-Nisbet Act (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code) and the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000) of Title 6 of the Government Code) shall not apply to the formation of the district or the formation

or changes in the boundaries of any zone. For all other purposes, the district shall be a "district" as that term is defined in the District Reorganization Act of 1965.

SEC. 81. Noncontiguous territory, either within or beyond the boundaries of the county, may be annexed to or detached from the district.

SEC. 82. The boundaries of the district shall be automatically changed in the event of a change in the boundaries of the county.

SEC. 83. Any judicial action or proceeding to attack, review, set aside, void, annul, or challenge the validity or legality of the formation of a zone, any contract entered into by the district or a zone, any bond or evidence of indebtedness of the district or a zone, or any assessment, rate, or charge of the district or a zone shall be commenced within 60 days of the effective date thereof. Any such action or proceeding shall be brought pursuant to the provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. The district may bring an action pursuant to the provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any of the matters referred to in this section.

PART 2. INTERNAL ORGANIZATION

CHAPTER 1. THE BOARD OF DIRECTORS

SEC. 200. Upon the formation of the district, the board of supervisors shall be ex officio the board of directors. Each member of the board of supervisors shall serve as a member of the board of directors without additional compensation, except for actual, necessary, and reasonable expenses.

SEC. 201. The board of supervisors acting ex officio as the board of directors may, upon the vote of at least four of its members, adopt a resolution either: (1) appointing a board of directors composed of one director for each supervisorial district in the county, each of whom shall be an eligible voter within the supervisorial district he or she is appointed to represent, and fixing a time and date on which the newly appointed directors shall take office, at which time the board of supervisors shall cease to be the ex officio board of directors, or (2) call a general district election or special election to fill the seats on the board of directors by election, in which event the board of supervisors shall cease to be the ex officio board of directors at the time the elected board of directors takes office.

SEC. 202. In the event that directors are appointed by the board of supervisors acting ex officio as the board of directors, they shall hold office until their successors take office following their election at the first general district election held after the appointment. At the first general district election of members of the board of directors, the directors elected from supervisorial districts 1, 3, and 5 shall be elected for a term of four years, and the directors elected

from supervisorial districts 2 and 4 shall be elected for a term of two years.

SEC. 203. Except as otherwise provided for in this chapter, one director shall be elected from and by the eligible voters of each supervisorial district of the county for a four-year term. Directors shall not be elected on an at-large basis. Any change in the boundaries of supervisorial districts shall not take effect for purposes of the election of directors until the next general district election or special election following the change. Each director, other than the board of supervisors acting ex officio as the board of directors, shall be an eligible voter of the supervisorial district which he or she represents at the time of appointment or nomination and during his or her entire term of office.

SEC. 204. Prior to taking office, each director shall take the official oath and execute such bond as may be set by the board of directors.

SEC. 205. All vacancies occurring in the office of director shall be filled pursuant to Section 1780 of the Government Code.

SEC. 206. Each director, other than the board of supervisors acting ex officio as the board of directors, shall be entitled to receive compensation in an amount set by the board of directors and recorded in its official minutes, not to exceed one hundred dollars ($100) per day for each day's attendance at meetings of the board of directors or for each day's service rendered as a director by request of the board of directors, not exceeding a total of six days in any calendar month, together with actual, necessary, and reasonable expenses incurred in the performance of duties required or authorized by the board of directors.

SEC. 207. At its first meeting and at its regular meeting in January each year thereafter, the board of directors shall elect a chairman and vice chairman from its members.

SEC. 208. The board of directors shall hold one or more regular meetings each month at such time and place as it may set by resolution. No change in the date of the regular meeting shall be effective until notice thereof has been published in a newspaper of general circulation within the county at least seven days prior to the effective date of the change. Special meetings of the board of directors may be called and conducted in the manner provided for in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 209. A majority of the board of directors shall constitute a quorum for the transaction of business.

SEC. 210. The vote of a majority of the directors present at any meeting attended by a quorum shall be necessary to take action, unless otherwise specified in this act or by law.

CHAPTER 2. OTHER OFFICERS AND EMPLOYEES

SEC. 220. Any county employee designated by the board of supervisors shall be an ex officio employee of the district, and shall perform without additional compensation the same duties for the district as for the county in order to carry out the provisions of this act, during the time the board of supervisors serves ex officio as the board of directors. Thereafter, a county employee may serve as an ex officio employee of the district with the consent of the board of supervisors and the board of directors.

SEC. 221. The board of directors may employ and appoint any agents, officers, employees, and consultants as may be required, prescribe their duties, fix their salaries, and prescribe the terms and conditions of their employment.

PART 3. ELECTIONS

CHAPTER 1. GENERAL PROVISIONS

SEC. 300. All district elections shall be conducted in conformance with the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code), to the extent applicable, unless otherwise provided herein.

SEC. 301. Only eligible voters shall vote at district landowner voter elections. Each eligible voter in landowner voter elections shall have one vote for each one hundred dollars ($100) of assessed valuation or fraction thereof of land owned by him or her within the area in which the election is to be held. Assessed valuation shall be determined from the county's last equalized assessment roll. For land in multiple ownership, the owner shall designate in writing to the district, prior to the deadline set by the district, one owner of the land for voting purposes. Where applicable, the owner shall designate in writing, prior to the deadline set by the district, the legal representative who shall be entitled to vote on behalf of the owner.

SEC. 302. An eligible voter may vote at any district landowner voter election either in person or by a person duly appointed as his or her proxy.

SEC. 303. No appointment of a proxy shall be valid, accepted, or vote allowed thereon at any district landowner voter election unless it is in writing, it is executed by the eligible voter who is entitled to cast the votes for which the proxy is given, it is notarized, and it specifies the election at which it is to be used. An appointment of a proxy shall be used only at the election specified. Every appointment of a proxy is revocable at the pleasure of the eligible voter who is entitled to cast the votes for which the proxy is given at any time before the person appointed as proxy shall have cast a ballot representing the votes for which the appointment was given.

SEC. 304. Except as otherwise provided in this act, the county clerk shall conduct all elections within the district. The board of

directors may, by resolution, determine that the district shall conduct an election and an officer designated by the district shall perform the duties of the county clerk in conducting the election.

SEC. 305. The board of directors may, by resolution, direct that any district election be conducted by all-mailed ballot under the procedure for mailed ballot elections set forth in the Elections Code. If the general district election is to be conducted by all-mailed ballot, it shall be conducted in accordance with Section 23509.5 of the Elections Code. If a special election is to be conducted by all-mailed ballot, other than a special election consolidated with the general district election which is also to be conducted by all-mailed ballot, it may be conducted on any Tuesday, unless it is the day before or the day after a state holiday or unless it is one of the established election dates set forth in Section 2500 of the Elections Code. A resident voter special election to be conducted by all-mailed ballot may be consolidated with the general district election if it is also to be conducted by all-mailed ballot, and may be held on the date set forth in Section 23509.5 of the Elections Code.

CHAPTER 2. GENERAL DISTRICT ELECTIONS

SEC. 320. The general district election shall be held on the date provided for in the Uniform District Election Law for general district elections. The first general district election shall be held after the board of supervisors, acting ex officio as the board of directors, either appoints a board of directors or adopts a resolution calling the election as provided in Section 201.

CHAPTER 3. SPECIAL ELECTIONS

SEC. 340. Special elections may be called and conducted in the same manner as the general district election within the entire district or an affected supervisorial district or zone. The special election shall be held on one of the established election dates set forth in Section 2500 of the Elections Code or, if conducted by all-mailed ballot, in the manner provided for in this act.

SEC. 341. In the alternative to calling a special election within a zone under the provisions of the Uniform District Elections Law, the board of directors may call a zone election for any of the following purposes: to elect a zone council or to vote on proposals for the issuance of bonds, the approval of projects, or the levy of benefit assessments affecting the zone. A zone election may be held on any Tuesday, unless it is the day before or the day after a state holiday or unless it is one of the established election dates set forth in Section 2500 of the Elections Code. A zone election shall be conducted in the manner prescribed by the board of directors in its resolution calling the zone election. The resolution shall, among other things, set forth the term of office for zone council members to be elected, the notice requirements for the election, the period during which nominations

for zone council may be filed, whether the election shall be a resident voter or landowner voter election, and whether the election will be conducted by all-mailed ballot. Except to the extent provided to the contrary in the resolution, the zone election will be conducted in the same manner as special elections in the district.

PART 4. POWER AND PURPOSES

CHAPTER 1. POWERS GENERALLY

SEC. 400. The district shall have the power generally to perform all acts necessary or proper to carry out fully the provisions of this act.

SEC. 401. The district may commence and maintain any action or proceeding to carry out its purposes or protect its interests and may defend any action or proceeding brought against it.

SEC. 402. The district may execute, by its chairman and secretary, all contracts and other documents necessary to carry out the powers and purposes of the district.

SEC. 403. The district shall have perpetual succession.

SEC. 404. The district shall have the power to adopt a seal and alter it at its pleasure.

SEC. 405. The powers of the district shall, except as otherwise provided, be exercised by the board of directors.

SEC. 406. As used in this section, "special district" means a city, irrigation district, water district or other special district or mutual water company. The district shall not exercise within the boundaries of a special district any power enumerated in this part which is common to the power of the special district, without the prior agreement of the governing body of the special district.

SEC. 407. The district shall have the power to take absolutely or on condition, by grant, purchase, gift, devise, lease, with or without the privilege of purchasing, or otherwise, real and personal property of every kind, of any interest in real or personal property within or outside of the district, necessary to the full exercise of its powers, and to hold, use, enjoy, and to lease or dispose of the same subject to the limitations set forth in this act.

SEC. 408. All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of twenty-five thousand dollars ($25,000) shall be let to the lowest responsible bidder in the manner as provided.

The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment

of the claims for labor and material in connection therewith. The board may reject any and all bids.

If all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of twenty-five thousand dollars ($25,000) or where the work consists of channel protection, or maintenance work, or emergency work necessary in order to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids therefor, have the work done by force account. The district may purchase in the open market, without advertising for bids thereof, materials and supplies for use in any work either under contract or by force account.

The provisions of this section have no application to a contract entered into with the United States or to a contract authorized by a vote of the eligible voters of the district or a zone.

SEC. 409. The district shall have the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the land or inhabitants within the district, including, but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses. Water which is surplus to the needs of the lands and inhabitants within the district may be made available for beneficial use outside the district.

SEC. 410. The district shall have the power to control drainage, flood, and storm water within the district and drainage, flood, and storm water of streams outside of the district which flow into the district; to conserve the water by storage and surface reservoirs, and to divert and transport the water for beneficial uses within the district; to release the water from surface reservoirs in order to replenish and augment the supply of water in natural underground reservoirs, to save or conserve in any manner all or any of the water; to reduce the waste of water; to provide subsurface drainage to alleviate conditions of high groundwater levels within the district; and to protect the watercourses, watersheds, public highways, and life and property within the district from damage from any such drainage, flood, or storm water.

SEC. 411. The district shall have the power to authorize an engineering investigation and report on any existing or potential groundwater problem. The report shall include, but not be limited to, a description of the existing and potential future conditions of and changes in the depth, quality, yield, and operation of the groundwater basin in question. The investigation shall indicate any conditions and changes in the groundwater basin which are or will be detrimental or beneficial to overlying lands, and shall indicate the areal extent of the effects, which shall constitute the project area. The report shall offer recommendations of what actions, if any, could be initiated to improve groundwater conditions within the project

area. Upon review of the report, if the board of directors determines that specific actions are necessary to improve groundwater conditions, notwithstanding the provisions of Section 642, those actions shall not be implemented unless approved by two-thirds of the votes cast in an election conducted among eligible voters within the project area. Any actions to be implemented shall give the following priority for use of groundwater:

(a) Use on overlying lands within the project area.

(b) Use on nonoverlying lands within the district.

(c) Export from the district.

SEC. 412. The district shall have the power to construct, operate, and maintain works to develop hydroelectric energy and transmission lines for the conveyance thereof. The power generated may be used by the district for its purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers other than a public utility or public agency.

SEC. 413. The district shall have the power within or outside the district to construct, purchase, lease, or otherwise acquire works, and to purchase, lease, appropriate, condemn, or otherwise acquire surface waters and water rights, useful and necessary to make use of water for any purposes authorized by this act.

SEC. 414. Any property or work of the district may be leased for a use or purpose which the board finds will not interfere with or be inconsistent with district uses or purposes, upon terms which appear to the board to be for the best interests of the district.

SEC. 415. The district may, within or outside the district within the state, acquire by purchase, condemnation, or other legal means all property or rights in property necessary or proper for district works and purposes of the district. Eminent domain proceedings may be brought by the district for these purposes pursuant to the provisions of Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

SEC. 416. The district shall have the power to operate and maintain any work. This power shall include the right to repair, modify, alter, adjust, and replace any work.

SEC. 417. The district shall have the power to make surveys and investigations for works relating to control of drainage, storm, and flood water within or flowing into the district, of the water supply and resources of the district, or for hydroelectric development. The district may carry on and perform technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, water, water rights, use of water both within and outside of the district, or to the control of drainage, storm, and flood water both within and which now flow into the district, or to hydroelectric development. For these purposes, the district shall have the right of access through its authorized representative to all properties within the district.

SEC. 418. The district may disseminate information to the public concerning the rights, properties, and activities of the district.

CHAPTER 2. RATES AND CHARGES

SEC. 440. The board of directors shall, by resolution following notice and public hearing, fix rates and charges for services provided by the district, reflecting the reasonable cost and value of providing the service. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the rate or charge.

SEC. 441. The district shall have authority, by resolution following notice and public hearing, to levy a standby or carrying charge, not to exceed ten dollars ($10) per acre or fraction of acre per year, against each acre of land or fraction thereof to which a service provided by the district is available, irrespective of whether the service is actually used. However, no standby or carrying charge for water service shall be applied to lands situated more than one-quarter of a mile from an available main or service connection. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the standby charge.

SEC. 442. Rates and charges, including standby charges, when due are a lien on the landowner's land to whom the service is provided or made available, in the nature of assessments, and may be collected and enforced in the manner provided in this act for the collection and enforcement of assessments.

SEC. 443. Rates and charges, including standby charges, may be made payable in advance. The district may, by resolution, provide that rates and charges which remain unpaid for a period of not less than 30 days after they have become due shall be delinquent, and a one-time penalty not in excess of 10 percent shall be added on each charge as it becomes delinquent, and all delinquent rates and charges and penalties shall bear interest at a rate not in excess of 18 percent per year.

CHAPTER 3. CONTRACTS WITH THE UNITED STATES AND OTHER AGENCIES

SEC. 460. The district shall have the power to cooperate and contract with the United States, the State of California, or any department or agency of either, or with any other district or political subdivision of the state empowered by law to appropriate water and deliver water to users, or control drainage, storm, flood or other waters, for the purposes of acquisition, construction, purchase, extension, operation, or maintenance of works, whether for irrigation, drainage, flood control, water conservation, hydroelectric development, or any other beneficial use of water, or for a water supply for any beneficial use, or for the carrying out of any of the purposes of the district, and to carry out and perform the terms of any contract so made.

CHAPTER 4. RULES AND REGULATIONS

SEC. 480. The board of directors shall have authority to adopt, by ordinance, reasonable rules and regulations to implement the provisions of this act. Any person guilty of violating any provisions of the rules and regulations shall be guilty of a misdemeanor.

PART 5. FINANCIAL PROVISIONS

CHAPTER 1. FUNDS AND ACCOUNTS

SEC. 500. Any funds of the district may be deposited in the county treasury subject to disbursement as county funds are disbursed, provided that the disbursal shall be pursuant to the provisions of this act, under the direction of the county auditor or such other fiscal officer as is appointed by the board of directors.

SEC. 501. The district may establish and maintain any separate funds and accounts which it deems necessary in carrying out its powers and purposes under this act.

SEC. 502. The district may make any transfers, for the purposes of a loan, from one fund to another fund of the district, or from one fund to another fund of a zone, upon such terms and conditions as the board of directors deems appropriate and to the extent permitted by law.

SEC. 503. The county auditor or other fiscal officer appointed by the board of directors may invest any funds of the district or zone in any security, debenture, bond, or deposit permitted and allowed by law for the investment of funds of a political subdivision of the state.

CHAPTER 2. IMPROVEMENT BONDS

SEC. 520. The district shall have the power, in any year, to issue improvement bonds in accordance with and pursuant to the provisions and procedures of the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), or the Refunding Assessment Bond Act of 1935 (Chapter 732 of the Statutes of 1935).

CHAPTER 3. SPECIAL BENEFIT BONDS

SEC. 525. The board of directors may determine that a bonded indebtedness should be incurred to pay the cost of any project which will confer a special benefit on the district as a whole, or a special benefit on any zone or participating zone. The principal and interest on the special benefit bonds shall be paid by revenue derived from

an annual benefit assessment levied on the land benefited by the project for which the bonds were issued in the manner set forth in Chapter 1 (commencing with Section 700) of Part 7. Before adopting a resolution issuing special benefit bonds, the board of directors shall adopt a resolution of intention stating the intention to issue the special benefit bonds, the proposed amount of the bonds, the proposed denomination and maximum rate of interest of the bonds, a description of the proposed project for which the bonds shall be issued, and a description of the area which shall receive a special benefit from the proposed project and in which special benefits shall be levied to pay the principal and interest on the bonds. The resolution shall also state the time and place for a hearing by the board of directors on the proposal, at which time any interested person may appear and be heard.

SEC. 526. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing. The hearing may be consolidated with a hearing on any other proposal affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matter material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, or order the election on the proposal within the area affected, unless prior to the conclusion of the hearing, or any continued hearing, written protest against the proposal signed by a majority in number of the eligible voters within the affected area are filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing. If there is no majority protest, the board of directors shall not proceed with the proposal before holding an election within the affected area. A majority of the votes cast at the election shall be required to approve the proposal to issue the bonds.

SEC. 527. Any defect or irregularity in the proceedings in the calling or conduct of the special bond election shall not affect the validity of the bonds authorized by the election.

SEC. 528. The board of directors shall, pursuant to the provisions of this act, prescribe by resolution the form of the bonds, which shall include a designation of the district, zone, or participating zone affected, and of the interest coupons attached thereto. The bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date at a place or places to be fixed by the board and designated in the bonds, together with interest on all sums unpaid on that date until the whole of the indebtedness shall be paid.

SEC. 529. The board of directors may divide the principal

amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of another series. The maturity of each series shall comply with this section. The board may fix a date not more than two years from the date of issuance for the earliest maturity of each issue or series.

SEC. 530. The bonds shall be issued in such denomination as the board of directors shall determine.

SEC. 531. The bonds shall be payable on the date at the place fixed in the bonds, and at the interest rate specified in the bonds, and shall be made payable annually or semiannually.

SEC. 532. The bonds shall be numbered consecutively and shall be signed by the chairman of the board of directors and countersigned by the auditor or other fiscal officer of the district, and the seal of the district shall be affixed thereto. Either or both signatures may be printed, engraved, or lithographed.

SEC. 533. The interest coupons, if any, of the bonds shall be numbered consecutively and signed by the auditor or other fiscal officer, or by his or her printed, engraved or lithographed signature.

SEC. 534. The proceeds from the sale of bonds shall be paid into the district treasury, placed to the credit of the project fund, and expended only for the purpose for which the indebtedness was created. In the alternative, the proceeds of the sale of the bonds may be placed in the treasury of the county to the credit of the district and the respective zone, or participating zones thereof, for the uses and purposes of the district, zone, or participating zones voting the bonds, and the proper record of the transaction shall be placed upon the books of the county treasurer, and the bond funds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for the special bond election, subject to the provisions of this act. Payments from bond funds shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the district. Unexpended bond proceeds may be invested in any manner permitted by law for district investments, and any interest earned thereon shall be credited to the project fund and expended only for the purpose for which the indebtedness was created.

SEC. 535. Any bonds issued under the provisions of this chapter, and the interest thereon, shall be paid solely by revenue derived from annual benefit assessments levied as provided in this act. No zone nor the property therein shall be liable for the bonded indebtedness of any other zone, nor shall any moneys derived from assessments in any of the several zones be used in payment of principal, or interest, or otherwise, of the bonded indebtedness chargeable to any other zone.

SEC. 536. Whenever bonds have been authorized by the district, and the proceeds of the sale thereof have been expended as authorized, and the board of directors shall by resolution determine that additional bonds shall be issued for carrying out any of the

purposes of this act, the board of directors may again proceed as provided in this chapter for the issuance of bonds.

SEC. 537. The board of directors may by resolution determine that new bonds should be issued for the purpose of refunding any or all of the bonds outstanding of the district or any zone or participating zone. The procedure shall be the same as the procedure upon an original issue of bonds. The refunding bonds may be issued and sold in the manner and form prescribed for an original issue of bonds, and may, if the holders of bonds of an original issue and the board of directors so agree, be exchanged for the original bonds; provided, that the face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. The board of directors may raise money to pay principal and interest of the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue.

SEC. 538. Any bonds, original or refunding, may be made callable by resolution of the board of directors adopted at, or prior to, the time of issuing the bonds, and providing for the calling and redemption of the bonds, in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at a premium not exceeding 6 percent above the par value thereof and accrued interest. If any bonds are so made callable, a statement to that effect shall be set forth on the face of the bond. Notice of any redemption shall be published in the district pursuant to Section 6063 of the Government Code. The first publication of the notice shall be not less than 30 nor more than 90 days prior to the date fixed for the redemption. After the date fixed for the redemption, if the district shall have provided funds available for payment of the principal and interest of the bonds so called, interest on the bonds shall thereafter cease.

SEC. 539. The bonds shall be sold at a public sale to the lowest bidder, after notice of the sale has been given by publication in the district, pursuant to Section 6061 of the Government Code, at least one week prior to the sale and after any other notice which the board of directors may deem proper.

The manner of making, submitting, and opening bids, and conducting the sale, and the terms thereof, shall be determined by the board of directors. The board is hereby given the right to reject any and all bids which in the judgment of the board are not in the best interest of the district. If no bids are received, or if all bids are rejected, the board may either readvertise or sell the bonds at private sale.

SEC. 540. Should a proposition for issuing bonds submitted at any election under this chapter fail to receive the requisite number of votes of the eligible voters voting at the election to incur the indebtedness for the purpose specified, the board of directors shall not for six months after the election, call or order another election in the same area for incurring indebtedness and issuing bonds under this chapter, for the same objects and purposes.

SEC. 541. Any bond issued under the provisions of this chapter shall be free and exempt from all taxation within the State of California. It is hereby declared that the district is a district within the meaning of Section 1¾ of Article XIII and Section 13 of Article XI of the California Constitution.

SEC. 542. Any bond issued under the provisions of this chapter shall be legal investments for all trust funds, and for the funds of all insurance companies, banks both commercial and savings, and trust companies, for state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, the money or funds may be invested in bonds of the district, issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by law now or hereafter enacted be used as security for the performance of any act, the bonds of the district may be so used.

This section is intended to be and shall be considered the latest enactment with respect to the matters herein contained.

SEC. 543. The repeal or amendment of this act, or the dissolution or change in the boundaries of the district or any zone or participating zone shall not in any way affect or release any of the land in the district or zone from its liability on or from the obligations of any outstanding bonds or indebtedness or contracts for which the land is in any way security, until all the bonds and outstanding indebtedness and contracts have been fully paid or discharged.

SEC. 544. The provisions of this chapter shall apply only to the issuance of special benefit bonds issued in accordance with the provisions of this chapter.

CHAPTER 4. REVENUE BONDS

SEC. 550. If the board of directors by resolution determines that a bonded indebtedness to pay for the acquisition or construction of any project or work for any purposes of the district, zone, or participating zone or for refunding any outstanding bonds, should be incurred and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the district is authorized and shall have the power to define the project or work as an "enterprise" consistent with the definition in Section 54309 of the Government Code, and to issue revenue bonds all in the manner and as provided in the Revenue Bond Law of 1941, and for such purpose the district shall be considered a "local agency," as defined in Section 54307 of the Government Code.

CHAPTER 5. SHORT-TERM BORROWING

SEC. 560. The district may borrow money and incur indebtedness in the manner set forth in this chapter by action of the

board of directors and without the necessity of calling and holding an election in the district.

SEC. 561. Indebtedness may be incurred pursuant to this chapter for any purpose for which the district is authorized to expend funds.

SEC. 562. Indebtedness incurred under this chapter shall be evidenced by warrants of the district payable not to exceed five years from their date and bearing interest at a rate not to exceed the maximum interest permitted for the sale of bonds of the district.

SEC. 563. The warrants shall be issued by the district after the adoption by a four-fifths vote of all of the members of the board of directors of a resolution setting forth the form of the warrant, the maturity date or dates thereof, and the manner of execution thereof.

SEC. 564. The board of directors may in its resolution provide that the warrant shall be subject to call and redemption prior to maturity, at the option of the district, at such price as may be fixed in the resolution, not exceeding a premium of 6 percent of the par value of the warrants so subject to redemption. The resolution shall fix a method of giving notice of redemption to the holders of warrants to be redeemed and the price at which the warrants shall be subject to redemption. Warrants so subject to call and redemption prior to maturity shall contain a recital to that effect on their face.

SEC. 565. The warrants issued shall be offered for public sale upon notice inviting sealed bids therefor. The notice shall be given by publication once in a newspaper of general circulation in the county and the sale shall not be held before 10 days after the publication. The board of directors may reject all bids received on public sale and either readvertise or sell the warrants at private sale. The district may sell the warrants at a price below par value not to exceed 6 percent of the par value thereof.

CHAPTER 6. COUNTY FUNDING

SEC. 580. For the purpose of supplementing the general operating revenues of the district, upon request made by the board of directors, the board of supervisors is authorized to grant funds from the county general fund to the district without reimbursement from the district, for use for any purpose of the district for which the county is itself authorized to expend funds, and including, but not limited to, expenses incurred or estimated to be incurred during the next fiscal year for each of the following:

(a) The formation and administration of the district.

(b) The preparation of a comprehensive water resources and drainage management plan for the district for coordinating and managing the supply and distribution of water for all beneficial uses within the district and for coordinating and managing the control and disposal of drain, flood, and storm water within the district, and the formation of zones within the district for those purposes.

(c) The acquisition, development, distribution, and sale of water to the inhabitants of the district for all beneficial uses, including the

acquisition of water rights by purchase or condemnation and the acquisition, construction, repair, operation, and maintenance of works therefor.

(d) The acquisition, construction, repair, operation, and maintenance of works for control and disposal of drain, storm, and flood water within the district.

SEC. 581. The district shall keep any county funds in a separate account and, upon demand of the county, demonstrate that expenditures made therefrom were used only for the purposes enumerated in this chapter.

CHAPTER 7. MAXIMUM INTEREST AND DISCOUNT RATES

SEC. 590. Notwithstanding any other provision of law, a bond or evidence of indebtedness of the district, or zone or participating zone, as defined in this act, may bear interest at a rate or rates as determined by the board of directors in its discretion, but not to exceed 12 percent per year, unless some higher rate is permitted by law.

SEC. 591. In addition to interest paid on a bond or evidence of indebtedness of the district, the board of directors in its discretion may sell the bond or evidence of indebtedness at less than its par or face value not to exceed 6 percent of the par or face value thereof.

PART 6. ZONES

CHAPTER 1. FORMATION OF ZONES

SEC. 600. Improvement districts may be formed in the district in the same manner as improvement districts are formed in irrigation districts under the provisions of Part 7 (commencing with Section 23600) of Division 11 of the Water Code. In the alternative, improvement districts may be formed in the same manner as zones of benefit. Assessment districts may be formed in the district under the provisions of the Improvement Bond Act of 1915 (Division 10, (commencing with Section 8500) of the Streets and Highways Code), and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code). Improvement districts and assessment districts may be formed within the boundaries of any zone of benefit.

SEC. 601. If at any time it is desired to annex land to, or detach land from, a zone, a petition for that purpose signed by the owners of the land to be annexed or detached shall be filed with the board of directors, who shall commence proceedings thereon. In the alternative, the board of directors may initiate a proposal for a zone annexation or detachment. The board shall conduct a hearing on the proposal with the same notice and in the same manner as the hearing on the affected zone. For purposes of protests and an election on the proposal, the affected area shall consist of the land to be annexed to

or detached from the zone. The board of directors may prescribe any reasonable condition to which the annexation or detachment shall be subject, if approved.

SEC. 602. The board of directors may establish zones of benefit within the district without reference to the boundaries of other zones. The land comprising a zone of benefit need not be contiguous. A zone of benefit shall be established only with respect to a project for the benefit of the zone of benefit and proceedings for the establishment of the zone of benefit may be conducted concurrently with, and as a part of, proceedings for the instituting of projects relating to the zone of benefit, the issuance of special benefit bonds, and the levy of benefit assessments.

SEC. 603. Whenever the board of directors determines that a zone of benefit should be formed for the purposes set forth in this chapter, the board shall adopt a resolution of intention which shall state the following:

(a) The intention of the board to form the proposed zone of benefit.

(b) The purpose for which the proposed zone of benefit is to be formed.

(c) The estimated expense of carrying out the purpose, if known.

(d) That assessments for carrying out the purpose shall be levied exclusively upon the lands in the proposed zone of benefit.

(e) That a map showing the exterior boundaries of the proposed zone of benefit, which map shall govern for all details as to the extent of the proposed zone of benefit, is on file with the district secretary and is available for inspection by any interested person or persons.

(f) The time and place for a hearing by the board on the formation on the proposed zone of benefit, the extent thereof, the purpose for which it is to be formed, the benefit to land within the proposed zone of benefit from carrying out that purpose, the estimated expense of carrying out that purpose, if known, or any other matter relating to any of the foregoing.

(g) That at the time and place specified any interested person, including all persons owning land in the district or in the proposed zone of benefit, may appear and be heard.

SEC. 604. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 605. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution of intention, at which time any interested person may appear and be heard concerning any matter set forth in the resolution of intention or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, or proceed with the proposal unless prior to the conclusion of the hearing, or any continued hearing, written

protests against the proposal signed by a majority in number of the eligible voters within the proposed zone of benefit shall be filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

SEC. 606. At the conclusion of the hearing, the board of directors may, by resolution, order the zone of benefit formed for the purpose and with the exterior boundaries described therein. The resolution ordering formation shall state the estimated expense of carrying out the purpose described therein, if known. The resolution shall also number and designate the zone of benefit substantially as "Zone of Benefit Number _____ of the Colusa County Flood Control and Water Conservation District."

CHAPTER 2. ZONE COUNCIL

SEC. 620. After a zone has been formed, the board of directors may, by resolution, order the creation of a zone council within the zone. The resolution shall set forth the number of members of the council and their term of office. The zone council for a zone which consists entirely of the territory of an incorporated city may be comprised of the city council of the incorporated city. The members of all other zone councils shall be eligible voters of the zone in which the council is established and shall be elected to the council by the eligible voters of the zone. The resolution establishing the zone council shall set forth the procedure for conducting the election.

SEC. 621. Members of the zone council shall take office immediately upon certification of their election, filing of the official oath, and execution of a bond, if any, in an amount set by the board of directors. At its first meeting, the zone council shall elect from its members a chairman and a vice chairman and shall fix their terms of office. A majority of the zone council shall constitute a quorum for the transaction of business. The vote of a majority of the zone council members present at any meeting attended by a quorum shall be necessary to take action, unless otherwise specified in this act. Meetings of the zone council shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The zone council shall, by resolution, set the time and place for holding regular meetings. Zone councils shall receive compensation, if any, in an amount set by the board of directors.

SEC. 622. The purpose of a zone council is to assist the board of directors in the planning, acquisition, construction, operation, maintenance, and administration of projects within the zone in which it is established, and to coordinate the activity of the district within the zone with the activities of other public entities within the zone. The board of directors shall determine the specific responsibilities and powers of a zone council and may delegate to the

zone council any of the authority of the board with respect to the planning, acquisition, construction, operation, maintenance, or administration of a project within the zone.

SEC. 623. In the case of projects for the benefit of two or more zones, the board of directors may establish a participating zone council for the project, selected by either (1) the appointment by each zone council of an equal number of representatives selected from its membership, with one additional member of the participating zone council to be appointed by the board of directors or mutually selected by the two affected zone councils, or (2) any other method mutually agreed upon by the two affected zone councils.

SEC. 624. A zone council or a participating zone council shall be dissolved upon four-fifths of all members of the board of directors or upon a majority vote of all of the members of the board of directors and a majority vote of all of the members of the zone council.

CHAPTER 3. SELECTION OF PROJECTS

SEC. 640. The board of directors shall determine which projects shall be carried out and shall determine, as to each project, that it is either: (1) for the common benefit of the district as a whole, or (2) for the benefit of a single zone, whether in existence or not, or (3) for the common benefit of participating zones, whether in existence or not.

SEC. 641. The district may institute districtwide projects, projects for single zones, and joint projects for participating zones for studying, planning, financing, constructing, acquiring, maintaining, operating, extending, or repairing any work of common benefit to the district as a whole, to the zone, or to the participating zones, as the case may be. All powers of the district may be exercised or performed on behalf of and within a zone. Before proceeding with any project, the board of directors shall adopt a resolution of intention setting forth the proposed boundaries designating the benefitted area and stating its intention to undertake the project, together with an estimate of the cost of the project to be borne by the district as a whole, or a particular zone, or participating zones, as the case may be, and fixing a time and place for public hearing on the resolution. The resolution shall refer to a map or maps showing the general location of the project and shall generally describe the project. Notice of the hearing shall be given in the same manner as for a resolution of intention to form a zone of benefit. The proceedings on the resolution proposing the project may be consolidated with the proceedings on a resolution proposing formation of a zone of benefit.

SEC. 642. The hearing may be consolidated with a hearing on the formation of a zone, the issuance of special benefit bonds, or the levy of benefit assessments affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued,

the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, order an election on the proposal within the area affected, or proceed with the proposal, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by a majority in number of the eligible voters within the affected area shall be filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing. The board of directors shall not proceed with the proposal without an election unless a majority in number of the eligible voters within the affected area have filed with the board written consent to the proposal. If the election is held, a majority of the votes cast at the election shall be required to approve the proposal.

PART 7. ASSESSMENTS

CHAPTER 1. BENEFIT ASSESSMENTS

SEC. 700. The district shall be authorized to levy benefit assessments on a districtwide basis or within any zone or participating zone. The benefit assessment may be levied in any manner which reasonably reflects the benefit that will accrue to the area being assessed for the purpose of the assessment, including, but not limited to: (1) per acre or fraction thereof basis, or (2) for benefit assessments related to drain, storm, or flood control purposes, the proportionate water runoff from each parcel assessed.

SEC. 701. Benefit assessments may be levied for expenditures made, or expenditures estimated to be required during the next calendar or fiscal year, for any lawful purpose of the district, including, but not limited to, the following purposes:

(a) The formation and administration expenses of the districts.

(b) The formation and administration expenses of any zone.

(c) Engineering and other expenses in connection with the investigation and preparation of a resource management plan or plan for a work or project.

(d) Acquisition or construction of any work or project.

(e) Operation and maintenance of any work or project.

(f) Payment of principal and interest on special benefit bonds issued in the manner set forth in Chapter 3 (commencing with Section 525) of Part 5.

The revenues derived from the benefit assessment shall be used for no purpose other than the purpose specified at the time of levy of the assessment.

SEC. 702. The board of directors may adopt a resolution of intention to levy a special benefit assessment on land only. The

resolution shall set forth the proposed amount, manner of levy, and purpose of the proposed benefit assessment and designate by a map or otherwise the boundaries of the area proposed for assessment, and shall designate a time and place of hearing on the resolution.

SEC. 703. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 704. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may terminate further proceedings on the proposed assessment, modify the proposed assessment, order an election on the assessment within the area to be assessed, or levy the assessment, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposed assessment signed by a majority in number of the eligible voters within the area to be assessed shall be filed with the board, in which event further proceedings relating to the proposed assessment shall be suspended for not less than six months following the date of the conclusion of the hearing. The board of directors shall not levy the assessment without an election unless a majority in number of the eligible voters within the affected area have filed with the board written consent to levy the assessment. If an election is held, a majority of the votes cast in the area to be assessed shall be required to approve the assessment.

SEC. 705. After its approval, the benefit assessment shall be levied, collected, and enforced at the same time and in the same manner as county taxes.

SEC. 800. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 927

An act to add Section 39502.5 to, and to add and repeal Section 39227.1 of, the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 39227.1 is added to the Education Code, to read:

39227.1. Notwithstanding Section 39227, the Governing Board of the Madera Unified School District may use the buildings and facilities located on and known as the Madera Unified Training Center for classroom and other instructional purposes. During the period of use authorized by this section, the buildings and related facilities shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23.

The liability of the Madera Unified School District and the members of its governing board for a dangerous condition in the Madera Unified Training Center during the period of use authorized by this section shall be determined by the provisions of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

This section shall become inoperative on June 30, 1985, and as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 39502.5 is added to the Education Code, to read:

39502.5. (a) Notwithstanding the provisions of Section 39502, the adoption of a resolution authorizing the sale or lease of surplus school property belonging to the district pursuant to Section 39500 shall require the vote of only a majority of all the members of the governing board when the surplus school property is sold or leased in accordance with the provisions of subdivision (b).

(b) The surplus school property subject to subdivision (a) may be sold or leased by the governing board to another public agency for the development of housing primarily for persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code; provided, however, that not less than 20 percent of the housing units to be developed shall be restricted for a period of at least 20 years for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety 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:

Existing school facilities in the Madera Unified School District are insufficient to house the increased student population and it is essential that certain buildings and facilities, which are necessary for the district's educational program, remain in operation. Therefore, to ensure that educational services are provided without interruption, and to expedite the availability of low-income housing,

it is necessary that this act take effect immediately.

CHAPTER 928

An act to amend Sections 726, 2908, 4507, and 9052 of, to add Chapter 13 (commencing with Section 4980) to Division 2 of, and to repeal Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 of, the Business and Professions Code, to amend Section 25.9 of the Civil Code, to amend Section 1010 of the Evidence Code, to amend Section 1373 of the Health and Safety Code, and to amend Sections 10176, 10177, and 11512.8 of the Insurance Code, relating to marriage, family, and child counselors.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 726 of the Business and Professions Code is amended to read:

726. The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer which is substantially related to the qualifications, functions, or duties of the occupation for which a license was issued constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

SEC. 2. Section 2908 of the Business and Professions Code is amended to read:

2908. Nothing in this chapter shall be construed to prevent qualified members of other recognized professional groups licensed to practice in the State of California, such as, but not limited to, physicians, clinical social workers, educational psychologists, marriage, family and child counselors, optometrists, psychiatric technicians, or registered nurses, or attorneys admitted to the California State Bar, or persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry or psychology, or persons utilizing hypnotic techniques which offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders, or duly ordained members of the recognized clergy, or duly ordained religious practitioners from doing work of a psychological nature consistent with the laws governing their respective professions, provided they do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrist," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology; except that persons licensed under Article 5

(commencing with Section 4986) of Chapter 13 of Division 2 may hold themselves out to the public as licensed educational psychologists.

SEC. 3. 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 13 (commencing with Section 4980) of Division 2.

(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. 4. Section 9052 of the Business and Professions Code is amended to read:

9052. Nothing contained in this article shall be construed to prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions, provided that they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or that they shall not state or imply that they are licensed to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

(a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of this code.

(c) Members of the State Bar of California.

(d) Marriage, family and child counselors licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2.

(e) A priest, rabbi, or minister of the gospel of any religious denomination.

SEC. 5. Chapter 13 (commencing with Section 4980) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 13. MARRIAGE, FAMILY AND CHILD COUNSELORS

Article 1. Regulation

4980. No person may for remuneration engage in the practice of marriage, family and child counseling as defined by Section 4980.02, unless he or she holds a valid license as a marriage, family and child counselor, or unless he or she is specifically exempted from such requirement, or he or she may not advertise himself or herself as performing the services of a marriage, family, child, domestic, or marital consultant, or in any way use these or any similar titles to imply that he or she performs these services without a license as provided by this chapter, except that persons licensed under Article 4 (commencing with Section 9040) of Chapter 17 of Division 3, and persons licensed under Chapter 6.6 (commencing with Section 2900) may advertise that they practice marriage, family and child counseling but not that they hold the marriage, family and child counselor's license.

4980.01. Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, or the Psychology Licensing Act.

The provisions of this chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

The provisions of this chapter shall not apply to an employee of a governmental agency or of a school, college, or university, or of an institution both nonprofit and charitable if his or her practice is performed solely under the supervision of the agency, school, or organization by which he or she is employed, and if he or she performs such functions as part of the position for which he or she is employed.

4980.02. For the purposes of this chapter, the practice of marriage, family and child counseling shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships between spouses or members of a family

are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. Such practice includes premarriage counseling.

The application of marriage, family and child counseling principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, and the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships within a marriage and family.

A marriage, family and child counselor may use hypnosis in the course of performing marriage, family and child counseling provided that he or she can demonstrate experience in the clinical use of hypnosis which satisfies the criteria established by the board. The criteria shall include evidence of (a) coursework in hypnosis from qualified instructors and (b) experience in a clinical setting using hypnosis under the supervision of a physician, dentist, licensed psychologist, or a licensed marriage, family and child counselor who has held a certificate in hypnosis issued by the board for at least six months.

4980.03. (a) "Board" as used in this chapter, means the Board of Behavioral Science Examiners.

(b) "Intern," as used in this chapter, means an unlicensed person who has satisfied the qualifications and conditions specified in subdivisions (a) and (b) of Section 4980.40, and Section 4980.44.

(c) "Trainee," as used in this chapter, means one who is enrolled in a master's or doctor's degree program in marriage, family and child counseling or its equivalent, as specified in paragraphs (1) and (2) of subdivision (a) of Section 4980.40.

4980.07. The board shall administer the provisions of this chapter.

4980.10. A person engages in the practice of marriage, family and child counseling who performs or offers to perform or holds himself or herself out as able to perform such a service for remuneration either in the form of fees or donations.

4980.20. "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings and notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

4980.30. A person desiring to advertise the performance of marriage, family and child counseling services shall apply to the Board of Behavioral Science Examiners for a license and shall pay the license fee required by this chapter.

4980.40. To qualify for a license an applicant shall have all the following qualifications:

(a) A doctor's or a two-year master's degree in marriage, family and child counseling or a master's degree in social work, clinical psychology, counseling, or a degree determined by the board to be equivalent, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency as determined by the board. Equivalent degrees include, but are not limited to, the master's degree in social work from a school accredited by the Council on Social Work Education and the master's degree in child development and family studies.

(b) Must be at least 18 years of age.

(c) At least two years' experience, in interpersonal, relationships, marriage, family and child counseling and psychotherapy under the supervision of a licensed marriage, family and child counselor, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry, or the equivalent as determined by the board. All experience shall be at all times under the supervision of the supervisor who shall, with the person being supervised, be responsible for insuring that the extent, kind and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for the compliance of all laws, rules and regulations governing the practice of marriage, family and child counseling. Supervision shall include at least one hour of direct supervision for each week of experience claimed. Any person supervising another pursuant to this subdivision shall have been licensed or certified for at least two years prior to acting as a supervisor, except this requirement shall not affect any supervisorial relationship in existence on December 31, 1983. The board may prescribe by regulation such other qualifications for supervisors as it deems appropriate.

(d) The applicant shall pass a written examination conducted by the board or persons designated by the board and shall pass an oral examination if required in the discretion of the board for all applicants.

(e) Must not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

4980.41. Except for persons who have started full-time or continuous graduate study prior to September 1, 1978, a master's or doctor's degree as specified in subdivision (a) of Section 4980.40 shall include specific instruction in assessment, diagnosis, prognosis, and counseling and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions.

4980.42. Professional experience for the purpose of satisfying subdivision (c) of Section 4980.40 shall include supervised marriage, family and child counseling, and up to one-third of the hours may include receiving direct supervision and other professional enrichment activities. Such experience may be acquired through employment, provided such employment complies with this section,

and Sections 4980.40 and 4980.44.

4980.44. An unlicensed marriage, family and child counselor intern employed under the provision of Section 4980.42 shall:

(a) Have earned at least a master's degree as specified in subdivision (a) of Section 4980.40.

(b) Be registered with the board on a form provided by the board prior to the intern performing any duties.

(c) File for renewal of registration annually for a maximum of five years after initial registration with the board.

(d) Inform each client or patient prior to performing any counseling functions that he or she is unlicensed and under the supervision of a licensed marriage, family and child counselor, clinical social worker, psychologist or physician certified in psychiatry, whichever is applicable. Continued employment as an unlicensed marriage, family and child counselor intern after five years shall cease unless the requirements of subdivisions (c) and (d) of Section 4980.40 are met.

4980.50. Every applicant who applies for a license as marriage, family and child counselor shall be examined by the board. The examination shall be as set forth in paragraph (d) of subdivision (2) of Section 4980.40. Such examination shall be given at least twice a year at the time and place and under such supervision as the board may determine. The board may examine for knowledge in whatever theoretical or applied fields in marriage, family and child counseling as it deems reasonably appropriate. It may examine the candidate with regard to his or her professional skills and his or her judgment in the utilization of appropriate techniques and methods.

The board shall retain all written examinations for at least one year following the date of the examination. The board shall keep an acccurate transcript of all oral examinations and keep such a transcript as a part of its records for at least one year following the date of examination.

An applicant who has qualified pursuant to the provisions of this chapter shall be issued a license as a marriage, family, and child counselor in such forms as the board may deem appropriate.

4980.60. The board may adopt such rules and regulations as may be necessary to enable it to carry into effect the provisions of this chapter. The adoption, amendment or repeal of such rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

The board may, by rules or regulation, adopt, amend, or repeal rules of advertising and professional conduct appropriate to the establishment and maintenance of a high standard of integrity in the profession, provided such rules or regulations are not inconsistent with Section 4982. Every person who holds a license to practice marriage, family and child counseling shall be governed by such rules of professional conduct.

4980.70. Except as provided by Section 159.5, the board may

employ whatever additional personnel is necessary to carry out the provisions of this chapter.

4980.90. The board may issue a license to any person who, at the time of application, holds a valid license issued by a board of marriage counselor examiners or corresponding authority of any state, provided, in its opinion, the requirements for such licensure are substantially the equivalent of the requirements of this chapter, and upon payment of the fees specified.

4981. This article applies to licenses to engage in the business of marriage, family and child counseling, and does not apply to the licenses provided for in Article 5 (commencing with Section 4986) except that the board shall have all powers provided in this article not inconsistent with this chapter.

Article 2. Denial, Suspension, and Revocation

4982. The board may refuse to issue a license, or may suspend or revoke the license of any licensee if he or she has been guilty of unprofessional conduct. Such unprofessional conduct shall include:

(a) Conviction of a crime, or a plea of nolo contendere if the crime is substantially related to the qualifications, functions, or duties of a marriage, family, and child counselor.

(b) Securing a license by fraud or deceit practiced on the board.

(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 or to an extent that such action impairs his or her ability to perform his or her work as a marriage, family and child counselor with safety to the public.

(d) Advertising that is not in conformity with this chapter or any rules or regulations promulgated by the board.

(e) Violating or conspiring to violate the terms of this chapter.

(f) Committing a dishonest or fraudulent act as a marriage, family and child counselor resulting in substantial injury to another.

(g) Willful, unauthorized communication of information received in professional confidence.

(h) The supervision of any intern or trainee that is not in conformity with this chapter or any rules or regulations promulgated by the board.

4982.1. In addition to the grounds contained in Section 4982 the board shall revoke the license of any person, other than a physician and surgeon who uses or offers to use drugs in the course of performing marriage, family and child counseling services.

4982.2. A plea or verdict of guilty to a charge substantially related to the qualifications, functions and duties of a marriage, family and child counselor is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or shall 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.

4982.3. The proceedings conducted under this article shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3. Penalties

4983. Any person who violates any of the provisions of this chapter is guilty of 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.

4983.1. In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, 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 board, 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.

Article 4. Revenue

4984. Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board in a manner as to best distribute the renewal work throughout each year.

To renew an unexpired license, the holder thereof, on or before the expiration date of the license, shall apply for a renewal on a form prescribed by the director, and pay a two-year renewal fee prescribed by the Board of Behavioral Science Examiners.

4984.1. 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 board and payment of the renewal fee in effect on the last regular renewal date. If the license 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 shall continue in effect through the date provided for in Section 4984 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

4984.2. A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

4984.3. A revoked license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee shall, as a condition precedent to its reinstatement, 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.

4984.4. A license which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the licensee may apply for and obtain a new license if:

(a) No fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension.

(b) He or she pays all of the fees which would be required of him or her if he or she were then applying for a license for the first time and passes the licensing examinations.

4984.5. The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Science Examiners Fund.

4984.6. (a) The Behavioral Science Examiners Fund shall be expended by the Board of Behavioral Science Examiners in carrying out and enforcing the provisions of this chapter.

(b) The board shall keep such records as will reasonably insure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.

(c) Surpluses, if any, may be used in such a way so as to bear a reasonable relation to the revenue derived from each category, and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

4984.7. The amount of the fees prescribed by the provisions of this chapter which relate to licensing of persons to engage in the business of marriage, family and child counseling is that fixed by the following schedule:

(a) The application fee shall be thirty dollars ($30).

(b) The renewal fee shall be thirty dollars ($30).

(c) The delinquency fee shall be ten dollars ($10).

(d) The registration fee for an intern shall be fifteen dollars ($15).

(e) The renewal fee for an intern shall be seven dollars ($7).

(f) The examination fee shall be in an amount set by the board not to exceed thirty dollars ($30).

Article 5. Licensed Educational Psychologists

4986. Persons licensed under this article by the board may practice pursuant to this article.

4986.10. A licensed educational psychologist shall be authorized to perform any of the following professional functions pertaining to academic learning processes or the educational system or both:

(a) Educational evaluation, diagnosis, and test interpretation limited to assessment of academic ability, learning patterns, achievement, motivation, and personality factors directly related to academic learning problems.

(b) Counseling services for children or adults for amelioration of academic learning problems.

(c) Educational consultation, research, and direct educational services.

4986.20. A person who desires a license under this article shall meet all of the following qualifications:

(a) He or she shall possess at least a master's degree in psychology, educational psychology, school psychology, or counseling and guidance, or a degree deemed equivalent by the board under regulations duly adopted under this article. Such degree or training shall be obtained from educational institutions approved by the board according to the regulations duly adopted under this article.

(b) He or she shall be at least 18 years of age.

(c) He or she shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(d) He or she shall have successfully completed 60 semester hours of postgraduate work devoted to pupil personnel services or have experience deemed equivalent by the board in regulations duly adopted under this chapter.

(e) He or she shall furnish proof of three years of full-time experience as a credentialed school psychologist in the public schools or experience which the board deems equivalent. If the applicant provides proof of having completed one year's internship working full time as a school psychologist intern in the public schools in an accredited internship program, one year's experience shall be credited toward this requirement.

(f) He or she shall furnish written statements from two sponsors having personal knowledge of his or her professional competence. These statements shall include a description of the applicant's functioning and evaluation of his or her professional competencies. The sponsor of this applicant shall be qualified to be a licensed educational psychologist under this article.

(g) He or she shall be examined by the board with respect to the professional functions authorized by this article.

(h) He or she shall have at least one year of supervised professional experience in an accredited school psychology program, or under the direction of a licensed psychologist, or such suitable alternative experience as determined by the board in regulations

duly adopted under this chapter.

4986.30. The board may, in its discretion, provide for a continuing education program in connection with the professional functions and courses described in this article.

4986.40. The board shall issue an educational psychologist license to all applicants who meet the requirements of this article and who pay the board the fees required by this chapter.

4986.41. An applicant who has failed the examination can reapply upon payment of a fee of ten dollars ($10) if he or she reapplies within the 12-month period subsequent to failure of the examination.

4986.50. It is unlawful for any person to use any title or letters which imply that he or she is a licensed educational psychologist unless at the time of so doing he or she holds a valid, unexpired and unrevoked license issued under this article.

4986.60. The provisions of Sections 4984 through 4984.40 shall apply to this article.

4986.70. The board may refuse to issue a license, or may suspend or revoke the license of any licensee if he or she has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist, the record of conviction being conclusive evidence thereof.

(b) Securing a license by fraud or deceit practiced on the board.

(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 action impairs his or her ability to perform his or her work as a licensed educational psychologist with safety to the public.

(d) Improper advertising.

(e) Violating or conspiring to violate the terms of this article.

(f) Committing a dishonest or fraudulent act as a licensed educational psychologist resulting in substantial injury to another.

4986.80. The amount of the fees prescribed by the provisions of this chapter which relate to the licensing of educational psychologists is that fixed by the following schedule:

(a) The application fee and renewal fee shall be fixed by the board in an amount which does not exceed one hundred fifty dollars ($150) but is sufficient to support the functions of the board which relate to the licensing of educational psychologists.

(b) The delinquency fee shall be ten dollars ($10).

4986.81. Any person who violates any of the provisions of this article is guilty of a misdemeanor.

4986.90. In addition to other proceedings provided for in this article, whenever any person has engaged, or is about to engage in any acts or practices which constitute, or will constitute, an offense against this article, 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 board, 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.

4987. The board may, by rules or regulations, adopt, amend or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession, provided such rules or regulations are not inconsistent with Section 4986.70. Every person licensed under this article shall be governed by such rules of professional conduct.

Article 6. Marriage, Family and Child Counseling Corporations

4987.5. A marriage, family and child counseling corporation is a corporation which is registered with the Board of Behavioral Science Examiners and has a currently effective certificate of registration from the board 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 this article. Subject to all applicable statutes, rules and regulations, such marriage, family and child counseling corporation is entitled to practice marriage, family and child counseling. With respect to a marriage, family and child counseling corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Science Examiners.

4987.6. An applicant for registration as a marriage, family and child counseling corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation. The board may provide forms of application. If the board finds that the corporation is duly organized and existing pursuant to the General Corporation Law, that, except as provided in Section 13403 of the Corporations Code, each officer, director, shareholder and each employee who will render professional services is a licensed person as defined in the Moscone-Knox Professional Corporation Act, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of the board, the board shall upon payment of the registration fee in such amount as it may determine issue a certificate of registration. The application shall be signed and verified by an officer of the corporation.

4987.7. Each marriage, family and child counseling corporation shall file with the board annually and at such other times as the board may require a report containing such information pertaining to qualification and compliance with the statutes, rules and regulations of the board as the board may determine. The fee for filing such a

report shall be fixed by the board. All reports shall be signed and verified by an officer of the corporation.

4987.8. The name of a marriage, family and child counseling corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders and shall include one or more of the words "marriage," "family" and "child" together with either of the words "counseling" or "counselor" and wording or abbreviations denoting corporate existence.

4987.9. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a marriage, family and child counseling corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

4988. The income of a marriage, family and child counseling corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of such shareholder or his or her shares in the marriage, family and child counseling corporation.

4988.1. A marriage, family and child counseling 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, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license under Section 4980.50. The board shall have the same powers of suspension, revocation and discipline against a marriage, family and child counseling corporation as are now or hereafter authorized by Section 4982, or by any other similar statute against individual licensees, provided, however, that proceedings against a marriage, family and child counseling corporation 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.

4988.2. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a marriage, family and child counseling corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such rules and regulations may provide, and (b) that a marriage, family and child counseling corporation as a condition of obtaining a certificate pursuant to the Moscone-Knox Professional Corporation Act and this article shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional

services.

SEC. 6. Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 of the Business and Professions Code is repealed.

SEC. 7. Section 25.9 of the Civil Code is amended to read:

25.9. (a) Notwithstanding any other provision of law, a minor who has attained the age of 12 years who, in the opinion of the attending professional person, is mature enough to participate intelligently in mental health treatment or counseling on an outpatient basis, and (1) would present a danger of serious physical or mental harm to himself or herself or to others without such mental health treatment or counseling, or (2) has been the alleged victim of incest or child abuse, may give consent to the furnishing of such outpatient services. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or the legal guardian of the minor shall not be necessary to authorize the provision of such services Mental health treatment or counseling of a minor as authorized by this section shall include the involvement of the minor's parent, parents, or legal guardian, unless in the opinion of the professional person who is treating or counseling the minor, such involvement would be inappropriate. Such person shall state in the client record whether and when he or she attempted to contact the parent, parents, or legal guardian of the minor, and whether such attempt to contact was successful or unsuccessful, or the reason why, in his or her opinion, it would be inappropriate to contact the parent, parents, or legal guardian of the minor.

(b) The parent, parents, or legal guardian of a minor shall not be liable for payment for any such mental health treatment or counseling services, as provided in subdivision (a), unless such parent, parents, or legal guardian participates in the mental health treatment or counseling and then only for the services rendered with such participation.

(c) As used in this section "mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any governmental agency, by a person or agency having a contract with a governmental agency to provide such services, by any agency which receives funding from community united funds, by runaway houses and crisis resolution centers, or by any private mental health professional, as defined in subdivision (d).

(d) As used in this section "professional person" means a person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Administrative Code; marriage, family and child counselors as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code; licensed educational psychologists as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code; credentialed school psychologists as defined in

Section 49424 of the Education Code; clinical psychologists, as defined in Section 1316.5 of the Health and Safety Code; and the chief administrators of any agency referred to in subdivision (c).

(e) The provisions of this section shall not be construed to authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of his or her parent or guardian.

SEC. 8. Section 1010 of the Evidence Code is amended to read:

1010. As used in this article, "psychotherapist" means:

(a) A person authorized, or reasonably believed by the patient to be authorized, to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

(b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(c) A person licensed as a clinical social worker under Article 4 (commencing with Section 9040) of Chapter 17 of Division 3 of the Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature.

(d) A person who is serving as a school psychologist and holds a credential authorizing such service issued by the state.

(e) A person licensed as a marriage, family and child counselor under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

SEC. 9. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the

moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of such services. No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing

Law 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 or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (1) any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or (2) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (3) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. Nothing in this section shall be construed to allow a member to select and obtain mental health 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. 9.5. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific

benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of such services. A health care service plan that offers outpatient mental health services but does not cover such services in all of its group contracts shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law 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 or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (1) any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or (2) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (3) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow any

certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. Nothing in this section shall be construed to allow a member to select and obtain mental health 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. 10. Section 10176 of the Insurance Code is amended to read:

10176. In disability insurance the policy may provide for payment of medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses upon a reimbursement basis, or for the exclusion of any such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the insured first pay such expenses. No such policy shall prohibit the insured from selecting any psychologist or other person who is the holder of a certificate or license under Section 1000, 1634, 2135, 2553, 2630, 2948, or 3055 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, such certificate holder or licensee being expressly authorized by law to perform such services.

Nor shall any such policy prohibit the insured, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, from selecting any licensed clinical social worker who is the holder of a license issued under Section 9040 of the

Business and Professions Code or any occupational therapist as specified in Section 2570 of the Business and Professions Code, or any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, or from selecting any speech pathologist or audiologist licensed under Section 2530 of the Business and Professions Code or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform services deemed necessary by the referring physician, such certificate holder, licensee or otherwise regulated person, being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

SEC. 11. Section 10177 of the Insurance Code is amended to read:

10177. A self-insured employee welfare benefit plan may provide for payment of professional mental health expenses upon a reimbursement basis, or for the exclusion of such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the employee first pay such expenses. No such plan shall prohibit the employee from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any marriage, family, and child counselor who is the holder of a certificate or license under Section 4980.50 of the Business and Professions Code, or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health

nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, such certificate or license holder being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional services beyond his or her field or fields of competence as established by his or her education, training, and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

SEC. 12. Section 11512.8 of the Insurance Code is amended to read:

11512.8. A hospital service contract may provide for payment of professional mental health expenses upon a reimbursement basis, or for the exclusion of such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the employee first pay such expenses. No such contract shall prohibit the subscriber from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the contract, such certificate or license holder being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For

the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

SEC. 12.5. Section 9.5 of this bill incorporates amendments to Section 1373 of the Health and Safety Code proposed by both this bill and SB 940. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 1373 of the Health and Safety Code, and (3) this bill is enacted after SB 940, in which case Section 9 of this bill shall not become operative.

SEC. 13. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 929

An act to amend Sections 4001, 4004, and 4007 of the Business and Professions Code, relating to the State Board of Pharmacy.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 4001 of the Business and Professions Code is amended to read:

4001. The Governor shall appoint seven competent registered pharmacists, residing in different parts of the state, to serve as members of the board. The Governor shall appoint one public member and the Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member who shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

At least five of the seven registered pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: acute care hospital, community pharmacy, and long-term care or skilled nursing facility.

The first board vacancy after January 1, 1984, shall be filled by a pharmacist representative of a long-term care facility or skilled nursing facility. Subsequent vacancies shall ensure that there are pharmacists representative of an acute care hospital, community pharmacy and long-term care or skilled nursing facility.

SEC. 2. Section 4004 of the Business and Professions Code is amended to read:

4004. The board shall elect a president, a vice president, an executive secretary and a treasurer. The officers of the board shall be elected by a majority of the membership of the board. The executive secretary may or may not be a member of the board as the board may determine.

SEC. 3. Section 4007 of the Business and Professions Code is amended to read:

4007. Six members of the board constitute a quorum. The board shall hold a meeting at least once in every four months. The principal office of the board shall be located in Sacramento.

CHAPTER 930

An act to add Section 33051 to the Health and Safety Code, relating to redevelopment agencies.

[Approved by Governor September 19, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 33051 is added to the Health and Safety Code, to read:

33051. If the legislative body of the City and County of San Francisco adopts, or has adopted, an ordinance which prohibits discrimination on the basis of sexual orientation, it may require the agency to prohibit discrimination on that basis. In this case, the agency shall implement Sections 33435, 33436, and 33724 as if the discrimination prohibited by the legislative body were also prohibited by Section 33050.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances presented by a consolidated city and county which has adopted a local charter.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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.

CHAPTER 931

An act to add Sections 11470.1 and 11470.2 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 11470.1 is added to the Health and Safety Code, to read:

11470.1. (a) The expenses of seizing, eradicating, or destroying any controlled substance or its precursors shall be recoverable from:

(1) Any person who manufactures or cultivates a controlled substance or its precursors in violation of this division.

(2) Any person who aids and abets or who knowingly profits in any manner from the manufacture or cultivation of a controlled substance or its precursors on property owned, leased, or possessed by the defendant, in violation of this division.

(b) It shall not be necessary to seek or obtain a criminal conviction prior to the entry of judgment for the recovery of expenses. However, if criminal charges are pending against the defendant for the unlawful manufacture or cultivation of any controlled substance or its precursors, an action brought pursuant to this section shall, upon a defendant's request, be continued while the criminal charges are pending.

(c) The action may be brought by the district attorney, county counsel, or city attorney. All expenses recovered pursuant to this section shall be remitted to the law enforcement agency which incurred them.

(d) The burden of proof as to liability shall be on the plaintiff and shall be by a preponderance of the evidence in an action alleging that the defendant is liable for expenses pursuant to paragraph (1) of subdivision (a) of this section. The burden of proof as to liability shall be on the plaintiff and shall be by clear and convincing evidence in an action alleging that the defendant is liable for expenses pursuant to paragraph (2) of subdivision (a) of this section. The burden of proof as to the amount of expenses recoverable shall be on the plaintiff and shall be by a preponderance of the evidence in any action brought pursuant to subdivision (a) of this section.

(e) Only expenses which meet the following requirements shall be recoverable under this section:

(1) The expenses were incurred in seizing, eradicating, or destroying the controlled substance or its precursors. These expenses may not include any costs incurred in use of the herbicide paraquat.

(2) The expenses were incurred as a proximate result of the defendant's manufacture or cultivation of a controlled substance in violation of this division.

(3) The expenses were reasonably incurred.

(f) For the purpose of discharge in bankruptcy, a judgment for recovery of expenses under this section shall be deemed to be a debt for willful and malicious injury by the defendant to another entity or to the property of another entity.

(g) Notwithstanding Section 526 of the Code of Civil Procedure, the plaintiff may be granted a temporary restraining order or a preliminary injunction, pending or during trial, to restrain the defendant from transferring, encumbering, hypothecating, or otherwise disposing of any assets specified by the court, if it appears by the complaint that the plaintiff is entitled to the relief demanded and it appears that the defendant may dispose of those assets to thwart enforcement of the judgment.

(h) The Legislature finds and declares that civil penalties for the recovery of expenses incurred in enforcing the provisions of this division shall not supplant criminal prosecution for violation of those provisions, but shall be a supplemental remedy to criminal enforcement.

(i) Any testimony, admission, or any other statement made by the defendant in any proceeding brought pursuant to this section, or any evidence derived from the testimony, admission, or other statement, shall not be admitted or otherwise used in any criminal proceeding arising out of the same conduct.

(j) No action shall be brought or maintained pursuant to this section against a person who has been acquitted of criminal charges for conduct which may be the basis for an action under this section if, in the criminal action, there has been a finding of factual innocence by the court pursuant to standards set forth in subdivision (b) of Section 851.8 of the Penal Code.

SEC. 2. Section 11470.2 is added to the Health and Safety Code, to read:

11470.2. (a) In lieu of a civil action for the recovery of expenses as provided in Section 11470.1, the prosecuting attorney in a criminal proceeding may, upon conviction of the underlying offense, seek the recovery of all expenses recoverable under Section 11470.1 from:

(1) Any person who manufacturers or cultivates a controlled substance or its precursors in violation of this division.

(2) Any person who aids and abets or who knowingly profits in any manner from the manufacture or cultivation of a controlled substance or its precursors on property owned, leased, or possessed by the defendant, in violation of this division. The trier of fact shall make an award of expenses, if proven, which shall be enforceable as any civil judgment. If probation is granted, the court may order payment of the expenses as a condition of probation. All expenses recovered pursuant to this section shall be remitted to the law enforcement agency which incurred them.

(b) The prosecuting attorney may, in conjunction with the criminal proceeding, file a petition for recovery of expenses with the superior court of the county in which the defendant has been

charged with the underlying offense. The petition shall allege that the defendant had manufactured or cultivated a controlled substance in violation of Division 10 (commencing with Section 11000) of the Health and Safety Code and that expenses were incurred in seizing, eradicating, or destroying the controlled substance or its precursors. The petition shall also state the amount to be assessed. The prosecuting attorney shall make service of process of a notice of that petition to the defendant.

(c) The defendant may admit to or deny the petition for recovery of expenses. If the defendant admits the allegations of the petition, the court shall rule for the prosecuting attorney and enter a judgment for recovery of the expenses incurred.

(d) If the defendant denies the petition or declines to admit to it, the petition shall be heard in the superior court in which the underlying criminal offense will be tried and shall be promptly heard following the defendant's conviction on the underlying offense. The hearing shall be held either before the same jury or before a new jury in the discretion of the court, unless waived by the consent of all parties.

(e) At the hearing, the burden of proof as to the amount of expenses recoverable shall be on the prosecuting attorney and shall be by a preponderance of the evidence.

(f) For the purpose of discharge in bankruptcy, a judgment for recovery of expenses under this section shall be deemed to be a debt for willful and malicious injury by the defendant to another entity or to the property of another entity.

CHAPTER 932

An act to amend Section 1203 of, and to add Section 1191.2 to, the Penal Code, relating to victims of crime.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 1191.2 is added to the Penal Code, to read:

1191.2. In providing notice to the victim pursuant to Section 1191.1, the probation officer shall also provide the victim with information concerning the victim's right to civil recovery against the defendant and the victim's opportunity to be compensated from the Restitution Fund. This information shall be in the form of written material prepared by the Judicial Council and shall be provided to each victim for whom the probation officer has a current mailing address.

SEC. 2. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, "probation" shall mean the

suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in the report his or her recommendation of the amount the defendant is required to pay as a restitution fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or her report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines

that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert such information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(i) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he or she was armed with such weapon at either of such times.

(ii) The person used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) The person willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to a determination of the amount of a restitution fine pursuant to Section 13967 of the Government Code in all cases where such determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in Section 13967 of the Government Code.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 3. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in the report his or her recommendation of the amount the defendant is required to pay as a restitution fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or her report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with

the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert such information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a,

or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(i) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he or she was armed with such weapon at either of such times.

(ii) The person used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) The person willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned or caused the burning of an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to a determination of the amount of a restitution fine pursuant to Section 13967 of the Government Code in all cases where such determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in Section 13967 of the Government Code.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 4. This act is part of the Crime Victim Restitution Program of 1983 in that it assists crime victims in becoming aware of, and in pursuing, procedures available for obtaining restitution.

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 duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

SEC. 6. Section 3 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by both this bill and SB 76. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 1203 of the Penal Code, and (3) this bill is enacted after SB 76, in which case Section 2 of this bill shall not become operative.

CHAPTER 933

An act to add Section 1500.5 to the Evidence Code, and to amend Section 499c of the Penal Code, relating to computers.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 1500.5 is added to the Evidence Code, to read:

1500.5. Notwithstanding the provisions of Section 1500, a printed representation of computer information or a computer program which is being used by or stored on a computer or computer readable storage media shall be admissible to prove the existence and content of the computer information or computer program.

Computer recorded information or computer programs, or copies of computer recorded information or computer programs, shall not be rendered inadmissible by the best evidence rule. Printed representations of computer information and computer programs will be presumed to be accurate representations of the computer information or computer programs that they purport to represent. This presumption, however, will be a presumption affecting the burden of producing evidence only. If any party to a judicial proceeding introduces evidence that such a printed representation is inaccurate or unreliable, the party introducing it into evidence will

have the burden of proving, by a preponderance of evidence, that the printed representation is the best available evidence of the existence and content of the computer information or computer programs that it purports to represent.

SEC. 2. Section 499c of the Penal Code is amended to read:

499c. (a) As used in this section:

(1) "Access" means to approach, a way or means of approaching, nearing, admittance to, including to instruct, communicate with, store information in, or retrieve information from a computer system or computer network.

(2) "Article" means any object, material, device or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint, map, or tangible representation of computer program or information, including both human and computer readable information and information while in transit.

(3) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested.

(4) "Computer system" means a machine or collection of machines, one or more of which contain computer programs and information, that performs functions, including, but not limited to, logic, arithmetic, information storage and retrieval, communications, and control.

(5) "Computer network" means an interconnection of two or more computer systems.

(6) "Computer program" means an ordered set of instructions or statements, and related information that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.

(8) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(9) "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, computer program or information stored in a computer, information in transit, or improvement which is secret and is not generally available to the public, and which gives one who uses it an advantage over competitors who do not know of or use the trade secret; and a trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

(b) Every person is guilty of theft who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his or her own use or to the use of another, does any of the following:

(1) Steals, takes, carries away, or uses without authorization a trade secret.

(2) Fraudulently appropriates any article representing a trade secret entrusted to him.

(3) Having unlawfully obtained access to the article, without authority makes or causes to be made a copy of any article representing a trade secret.

(4) Having obtained access to the article through a relationship of trust and confidence, without authority and in breach of the obligations created by such relationship makes or causes to be made, directly from and in the presence of the article, a copy of any article representing a trade secret.

(c) Every person who promises or offers or gives, or conspires to promise or offer to give, to any present or former agent, employee or servant of another a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same and every person who being a present or former agent, employee, or servant, solicits, accepts, receives or takes a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same 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 such imprisonment.

(d) In a prosecution for a violation of this section it shall be no defense that the person so charged, returned or intended to return the article.

SEC. 3. Section 499c of the Penal Code is amended to read:

499c. (a) As used in this section:

(1) "Access" means to approach, a way or means of approaching, nearing, admittance to, including to instruct, communicate with, store information in, or retrieve information from a computer system or computer network.

(2) "Article" means any object, material, device or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint, map, or tangible representation of computer program or information, including both human and computer readable information and information while in transit.

(3) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested.

(4) "Computer system" means a machine or collection of machines, one or more of which contain computer programs and information, that performs functions, including, but not limited to,

logic, arithmetic, information storage and retrieval, communications, and control.

(5) "Computer network" means an interconnection of two or more computer systems.

(6) "Computer program" means an ordered set of instructions or statements, and related information that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.

(8) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(9) "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, computer program or information stored in a computer, information in transit, or improvement which is secret and is not generally available to the public, and which gives one who uses it an advantage over competitors who do not know of or use the trade secret; and a trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

(b) Every person is guilty of theft who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his or her own use or to the use of another, does any of the following:

(1) Steals, takes, carries away, or uses without authorization a trade secret.

(2) Fraudulently appropriates any article representing a trade secret entrusted to him.

(3) Having unlawfully obtained access to the article, without authority makes or causes to be made a copy of any article representing a trade secret.

(4) Having obtained access to the article through a relationship of trust and confidence, without authority and in breach of the obligations created by such relationship makes or causes to be made, directly from and in the presence of the article, a copy of any article representing a trade secret.

(c) Every person who promises or offers or gives, or conspires to promise or offer to give, to any present or former agent, employee or servant of another a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same and every person who being a present or former agent, employee, or servant, solicits, accepts, receives or takes a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article

representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and such imprisonment.

(d) In a prosecution for a violation of this section it shall be no defense that the person so charged, returned or intended to return the article.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 1485 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 499c of the Penal Code, and this bill is chaptered after Assembly Bill 1485, that Section 499c of the Penal Code, as amended by Section 290 of Assembly Bill 1485 be further amended on the operative date of this act in the form set forth in Section 3 of this act to incorporate the changes in Section 499c proposed by this bill. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill 1485 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 499c, and this bill is chaptered after Assembly Bill 1485, in which case Section 3 of this act shall become operative on the operative date of this act and Section 2 of this act shall not become operative.

CHAPTER 934

An act to add Sections 13352.2 and 13352.3 to the Vehicle Code, and to add Section 783 to the Welfare and Institutions Code, relating to driving offenses.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 13352.2 is added to the Vehicle Code, to read:

13352.2. Any finding of a juvenile court judge, juvenile traffic hearing officer, or referee of a juvenile court of a commission of an offense in any state, territory, possession of the United States, the

District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of Sections 13352, 13352.3, and 13352.5, and the finding of a juvenile court judge, juvenile traffic hearing officer, or referee of a juvenile court of a commission of an offense which, if committed in this state, would be a violation of Section 23153 is a conviction of Section 23153 for the purposes of Sections 13352, 13352.3, and 13352.5.

SEC. 2. Section 13352.3 is added to the Vehicle Code, to read:

13352.3. (a) Notwithstanding any other provision of law, excepting paragraphs (6) and (7) of subdivision (a) of Section 12814.6, subdivisions (b), (c), and (d) of Section 13352, and Sections 13352.2 and 13367, the department shall immediately revoke the privilege to operate a motor vehicle of any person upon receipt of a duly certified abstract of the record of any court showing that the person was convicted of a violation of Section 23152 or 23153 while under 18 years of age, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153.

(b) The term of the revocation shall be until the person reaches 18 years of age, for one year, or for the period prescribed for restriction, suspension, or revocation specified in subdivision (a) of Section 13352, whichever is longer. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

SEC. 3. Section 783 is added to the Welfare and Institutions Code, to read:

783. An adjudication that a minor violated the provisions of Section 23152 or 23153 of the Vehicle Code shall be reported to the Department of Motor Vehicles at its office in Sacramento within 10 days of the adjudication pursuant to Section 1803 of the Vehicle Code.

CHAPTER 935

An act to amend Section 23109 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 23109 of the Vehicle Code is amended to read:

23109. (a) No person shall engage in any motor vehicle speed contest on a highway.

(b) No person shall aid or abet in any motor vehicle speed contest on any highway.

(c) No person shall engage in any motor vehicle exhibition of speed on a highway, and no person shall aid or abet in any motor vehicle exhibition of speed on any highway.

(d) No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a highway in any manner obstruct or place any barricade or obstruction or assist or participate in placing any barricade or obstruction upon any highway.

(e) Any person convicted of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than 24 hours nor more than 90 days or by a fine of not less than three hundred fifty-five dollars ($355) nor more than five hundred dollars ($500), or by both that fine and imprisonment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(f) Any person convicted of a violation of subdivision (a) for an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than four days nor more than six months and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to any person punishable under subdivision (f), in addition to the provisions of subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 48 hours nor more than six months.

(h) If any person is convicted of a violation of subdivision (a) and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(i) Any person who violates subdivision (b), (c), or (d) shall upon conviction thereof be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than two hundred fifty dollars ($250) or by both that fine and imprisonment.

SEC. 2. Section 23109 of the Vehicle Code is amended to read:

23109. (a) No person shall engage in any motor vehicle speed contest on a highway. As used in this section, a motor vehicle speed contest includes a motor vehicle race against another vehicle, a clock, or other timing device. For purposes of this section, an event in which the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limits, is not a speed contest.

(b) No person shall aid or abet in any motor vehicle speed contest on any highway.

(c) No person shall engage in any motor vehicle exhibition of speed on a highway, and no person shall aid or abet in any motor vehicle exhibition of speed on any highway.

(d) No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a highway in any manner obstruct or place any barricade or obstruction or assist or participate in placing any barricade or obstruction upon any highway.

(e) Any person convicted of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than 24 hours nor more than 90 days or by a fine of not less than three hundred fifty-five dollars ($355) nor more than five hundred dollars ($500) or both that fine and imprisonment. The person's privilege to operate a motor vehicle shall be subject to suspension as provided in subdivision (a) of Section 13352. The person's privilege to operate a motor vehicle may be restricted for 90 days to six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(f) Any person convicted of a violation of subdivision (a) for an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than four days nor more than six months and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). Additionally, the Department of Motor Vehicles shall either suspend the person's privilege to operate a motor vehicle, as provided in subdivision (a) of Section 13352, or the person's privilege to operate a motor vehicle shall be restricted for six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to any person punishable under subdivision (f), in addition to the provisions of subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 48 hours nor more than six months. The person's privilege to operate a motor vehicle shall also be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13352 or shall be restricted pursuant to subdivision (f).

(h) If any person is convicted of a violation of subdivision (a) and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(i) Any person who violates subdivision (b), (c), or (d) of this section shall upon conviction thereof be punished by imprisonment in the county jail for not more than 90 days or by fine of not more than two hundred fifty dollars ($250) or by both that fine and imprisonment.

(j) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this section, the court shall clearly mark the restriction and the dates of the restriction on that person's driver's license and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The Department of Motor Vehicles shall place that restriction in the person's records in the Department of Motor Vehicles and enter the restriction on any license subsequently issued by the Department of Motor Vehicles to that person during the period of the restriction.

(k) The court may order that any person convicted under this section, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(*l*) This section shall be known and may be cited as the Louis Friend Memorial Act.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 4. Section 2 of this bill incorporates amendments to Section 23109 of the Vehicle Code proposed by both this bill and SB 319. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 23109 of the Vehicle Code, and (3) this bill is enacted after SB 319, in which case Section 1 of this bill shall not become operative.

CHAPTER 936

An act to amend Section 607 of, and to add Section 1777 to, the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 607 of the Welfare and Institutions Code is amended to read:

607. (a) The court may retain jurisdiction over any person who

is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains the age of 21 years, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over any person who is found to be a person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) of Section 707 until that person attains the age of 25 years if the person was committed to the Department of the Youth Authority.

(c) The court shall not discharge any person from its jurisdiction who has been committed to the Department of the Youth Authority so long as the person remains under the jurisdiction of the Department of the Youth Authority, including periods of extended control ordered pursuant to Section 1800.

(d) The court may retain jurisdiction over any person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) of Section 707 who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that person has attained the age of 25 years, unless the court which committed the person finds, after notice and hearing, that the person's sanity has been restored.

SEC. 2. Section 1777 is added to the Welfare and Institutions Code, to read:

1777. Any moneys received pursuant to the Federal Social Security Act by a ward who is incarcerated by the Youth Authority are liable for the reasonable costs of the ward's support and maintenance.

CHAPTER 937

An act to amend Sections 192 and 193 of the Penal Code, and to amend Section 23153 of, and to add Sections 13350.5 and 23156 to, the Vehicle Code, relating to crimes.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 192 of the Penal Code is amended to read:

192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

1. Voluntary—upon a sudden quarrel or heat of passion.

2. Involuntary—in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection; provided that this subdivision shall not apply to acts committed in the driving of a vehicle.

3. Vehicular—

(a) Driving a vehicle, not involving drugs or alcohol and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle, not involving drugs or alcohol, and in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(b) Driving a vehicle, not involving drugs or alcohol, and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle, not involving drugs or alcohol, and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(c) Driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(d) Driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

This section shall not be construed as making any homicide in the driving of a vehicle punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

"Gross negligence", as used in this section, shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in People v. Watson (1981) 30 Cal. 3d 290.

SEC. 2. Section 193 of the Penal Code is amended to read:

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for two, four, or six years.

(b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three or four years.

(c) Vehicular manslaughter is punishable as follows:

(1) For a violation of paragraph (a) of subdivision 3 of Section 192, the punishment shall be either by imprisonment in the county jail for not more than one year or imprisonment in the state prison for two, four, or six years.

(2) For a violation of paragraph (b) of subdivision 3 of Section 192 the punishment shall be by imprisonment in the county jail for not more than one year.

(3) For a violation of paragraph (c) of subdivision 3 of Section 192, the punishment shall be by imprisonment in the state prison for four, six or eight years.

(4) For a violation of paragraph (d) of subdivision 3 of Section 192, the punishment shall be either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months, two, or four years.

SEC. 2.5. Section 193 of the Penal Code is amended to read:

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for three, six, or 11 years.

(b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three or four years.

(c) Vehicular manslaughter is punishable as follows:

(1) For a violation of paragraph (a) of subdivision 3 of Section 192 the punishment shall be either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison.

(2) For a violation of paragraph (b) of subdivision 3 of Section 192 the punishment shall be by imprisonment in the county jail for not more than one year.

(3) For a violation of paragraph (c) of subdivision 3 of Section 192, the punishment shall be by imprisonment in the state prison for four, six, or eight years.

(4) For a violation of paragraph (d) of subdivision 3 of Section 192, the punishment shall be either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months, two, or four years.

SEC. 3. Section 13350.5 is added to the Vehicle Code, to read:

13350.5. Notwithstanding Section 13350, for the purposes of this article, conviction of a violation of subdivision (c) or (d) of subsection 3 of Section 192 of the Penal Code is deemed to be a conviction of a violation of Section 23153.

SEC. 4. Section 23153 of the Vehicle Code is amended to read:

23153. (a) It is unlawful for any person, while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(b) It is unlawful for any person, while having 0.10 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

For purposes of this subdivision, percent, by weight, of alcohol shall be based upon grams of alcohol per 100 milliliters of blood.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.10 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.10 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

SEC. 5. Section 23156 is added to the Vehicle Code, to read:

23156. For the purposes of this article, a prior offense which resulted in a conviction of a violation of subdivision (c) or (d) of subsection 3 of Section 192 of the Penal Code is a prior offense of a violation of Section 23153.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 193 of the Penal Code proposed by both this bill and AB 236. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 193 of the Penal Code, and (3) this bill is enacted after AB 236, in which case Section 2 of this bill shall not become operative.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 938

An act to amend Section 37 of, and to add Sections 340.3 and 1021.4 to, the Code of Civil Procedure, and to amend Sections 26820.4 and 72055 of, of the Government Code, relating to civil actions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 37 of the Code of Civil Procedure is amended to read:

37. (a) A civil action shall be entitled to preference, if the action is one in which the plaintiff is seeking damages which were alleged to have been caused by the defendant during the commission of a felony offense for which the defendant has been criminally convicted.

(b) The court shall endeavor to try the action within 120 days of the grant of preference.

SEC. 2. Section 340.3 is added to the Code of Civil Procedure, to read:

340.3. Unless a longer period is prescribed for a specific action, in any action for damages against a defendant based upon such person's

commission of a felony offense for which the defendant has been convicted, the time for commencement of the action shall be within one year after judgment is pronounced. If the sentence or judgment is stayed, the time for the commencement of the action shall be tolled until the stay is lifted. For purposes of this section, a judgment is not stayed if the judgment is appealed or the defendant is placed on probation.

SEC. 3. Section 1021.4 is added to the Code of Civil Procedure, to read:

1021.4. In an action for damages against a defendant based upon that defendant's commission of a felony offense for which that defendant has been convicted, the court may, upon motion, award reasonable attorney's fees to a prevailing plaintiff against the defendant who has been convicted of the felony.

SEC. 5. Section 26820.4 of the Government Code is amended to read:

26820.4. (a) 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 eighty-six dollars ($86).

(2) In any county where a fee is not collected for the court reporter fund, the total filing fee shall not exceed sixty-one dollars ($61).

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, 704.750, or 708.160 of the Code of Civil Procedure.

(b) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

SEC. 6. Section 26820.4 of the Government Code is amended to read:

26820.4. (a) 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 eighty-six dollars ($86).

(2) In any county where a fee is not collected for the court

reporter fund, the total filing fee shall not exceed sixty-one dollars ($61).

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 491 150, 704.750, or 708.160 of the Code of Civil Procedure.

(b) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

SEC. 7. Section 72055 of the Government Code is amended to read:

72055. (a) 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 forty dollars ($40).

(2) In any court where a fee is not collected for the court reporter fund, the total fee shall not exceed twenty-nine dollars ($29).

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, 704.750, or 708.160 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.

(b) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

SEC. 8. Section 72055 of the Government Code is amended to read:

72055. (a) 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 forty dollars ($40).

(2) In any court where a fee is not collected for the court reporter fund, the total fee shall not exceed twenty-nine dollars ($29).

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 491.150, 704.750, or 708.160 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.

(b) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

SEC. 9. It is the intent of the Legislature, if this bill and AB 99 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 26820.4 of the Government Code, and this bill is chaptered after AB 99, that Section 26820.4 of the Government Code, as amended by Section 27 of AB 99, be further amended on the effective date of this act in the form set forth in Section 5 of this act to incorporate the changes in Section 26820.4 proposed by this bill. Therefore, if this bill and AB 99 are both chaptered and become effective on or before January 1, 1984, and AB 99 is chaptered before this bill and amends Section 26820.4, Section 5 of this act shall become operative on the effective date of this act and Section 4 of this act shall not become operative.

SEC. 10. It is the intent of the Legislature, if this bill and Assembly Bill No. 99 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 72055 of the Government Code, and this bill is chaptered after Assembly Bill No. 99, that Section 72055 of the Government Code, as amended by Section 28 of Assembly Bill No. 99, be further amended on the effective date of this act in the form set forth in Section 8 of this act to incorporate the changes in Section 72055 proposed by this bill. Therefore, if this bill and Assembly Bill No. 99 are both chaptered and become effective on or before January 1, 1984, and Assembly Bill No. 99 is chaptered before this bill and amends Section 72055, Section 8 of this act shall become operative on the effective date of this act and Section 7 of this act shall not become operative.

SEC. 11. This act is part of the Crime Victim Restitution Program of 1983 in that it assists crime victims in obtaining restitution through civil actions.

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 provide the benefits of the procedural changes made by this act to litigants at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 939

An act to amend Sections 656.2 and 752 of, and to add Section 729.7 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 656.2 of the Welfare and Institutions Code is amended to read:

656.2. In any case in which a minor is alleged to have committed an act which would have been a felony if committed by an adult, the probation officer shall obtain a statement from the victim concerning the offense which shall be included in the social study made by the probation officer and submitted to the court pursuant to Section 706.

The probation officer shall also provide the victim with information concerning the victim's right to an action for civil damages against the minor and his or her parents and the victim's opportunity to be compensated from the restitution fund. The information shall be in the form of written material prepared by the Judicial Council and shall be provided to each victim for whom the probation officer has a current mailing address.

SEC. 2. Section 729.7 is added to the Welfare and Institutions Code, to read:

729.7. At the request of the victim, the probation officer shall assist in mediating a service contract between the victim and the minor under which the amount of restitution owed to the victim by the minor pursuant to Section 729.6 may be paid by performance of specified services. If the court approves of the contract, the court may make performance of services under the terms of the contract a condition of probation. Successful performance of service shall be credited as payment of restitution in accordance with the terms of the contract approved by the court.

SEC. 3. Section 752 of the Welfare and Institutions Code is amended to read:

752. Whenever a case is transferred as provided in Section 750, a certified copy of the file may be made and forwarded to the county where the person resides and shall include the name and address of the legal residence of the parent or guardian of the minor. A certified copy shall be deemed to be the same as the original. The original court file shall be kept in the files of the transferring county.

SEC. 4. Sections 1 and 2 of this act are part of the Crime Victim Restitution Program of 1983 in that they assist victims of juvenile crime in obtaining restitution through services performed by the minor and in that they provide victims of juvenile crime with information as to how to obtain monetary restitution.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

CHAPTER 940

An act to repeal and add Section 729.6 of, and to add Sections 730.6, and 1766.1 to, the Welfare and Institutions Code, relating to restitution for crimes.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. It is the intention of the Legislature that, provided a practical, equitable and cost-effective system can be developed, it would be desirable for restitution payments made by a defendant to be earmarked for victims of the defendant's criminal conduct. Therefore, the Commission on Restitution as proposed to be created by Section 2 of Assembly Bill 626 of the 1983–84 Regular Session of the Legislature, in addition to any other duties prescribed therein, shall make findings and recommendations concerning a program by which payments made by a defendant into the Restitution Fund shall be earmarked for the specific restitution of crime victims who suffered losses as a result of the defendant's criminal conduct.

SEC. 2. Section 729.6 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 729.6 is added to the Welfare and Institutions Code, to read:

729.6. (a) If a minor is found to be a person described in Section 602, and the court does not remove the minor from the physical custody of the parent, or guardian, the court shall require as a condition of probation, that the minor make restitution as follows:

(1) To the victim, if the crime involved a victim. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. Payments shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(2) To the Restitution Fund, if the crime did not involve a victim.

(b) If the court finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons why restitution should not be required as provided in subdivision (a), the court shall require, as a condition of probation, that the minor perform specified community services.

(c) The court may avoid imposing the requirement of community service as a condition of probation only if it finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons not to require community service in addition to its finding as to why restitution pursuant to subdivision (a) should not be required.

(d) For purposes of paragraph (1) of subdivision (a), "restitution" means full or partial payment for the value of stolen or damaged property, medical expenses, and wages or profits lost due to injury or to time spent as a witness or in assisting the police or prosecution, which losses were caused by the minor as a result of committing the offense for which he or she was found to be a person described in Section 602. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible. Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the minor arising out of the offense for which the minor was found to be a person described in Section 602.

(e) For purposes of paragraph (2) of subdivision (a), the amount of restitution to be paid to the Restitution Fund shall be set at the discretion of the court and commensurate with the seriousness of the offense; shall be at least ten dollars ($10) but shall not exceed one thousand dollars ($1,000) if the person is found to have committed a felony; and shall be at least five dollars ($5) but not more than one hundred dollars ($100) if the person is found to have committed a misdemeanor.

(f) Nothing in this section shall be construed to limit the authority of the court to grant or deny probation or provide conditions of probation.

SEC. 4. Section 730.6 is added to the Welfare and Institutions Code, to read:

730.6. (a) When a minor is found to be a person described in Section 602, in addition to any other disposition authorized by law, the court shall levy a restitution fine which shall be deposited in the Restitution Fund, the proceeds of which shall be distributed pursuant to subdivision (b) of Section 13959 of the Government Code.

(b) The restitution fine imposed pursuant to this section shall be in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. If the person is found to be a person described in Section 602 by reason of the commission of one or more felony offenses, the court shall impose a separate and additional restitution fine of not less than ten dollars ($10) and not more than one thousand dollars ($1,000). In setting the amount of the fine for felony offenses, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the minor as a result of the offense, and the extent to which others suffered losses as a result of the offense. Such losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the offense.

(c) The restitution fine shall be imposed in every case in which a minor is found to be a person described in Section 602. Such restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's present ability to pay. Except as provided in this section, under no circumstances shall the court fail to impose the separate and additional restitution fine in felony cases required by this section. In a case in which the minor is a person described in Section 602 by reason of having committed a felony offense, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of that portion of the restitution fine which exceeds the prescribed minimum amount. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(d) In any case in which the minor is ordered to pay restitution to a victim as a condition of probation, the order to pay the restitution fine may be stayed pending the successful completion of probation, and thereafter the stay shall become permanent.

(e) Upon the revocation of probation, the court shall reinstate the restitution fine. Any payments of restitution made pursuant to subdivision (d) shall be offset against the fine imposed pursuant to this subdivision. However, probation shall not be revoked for failure of a person to make restitution pursuant to Section 729.6 as a condition of probation unless the court determines that the person has willfully failed to pay or failed to make sufficient bona fide efforts to legally acquire the resources to pay.

SEC. 5. Section 1766.1 is added to the Welfare and Institutions Code, to read:

1766.1. When permitting a minor committed to the Youth Authority his or her liberty pursuant to subdivision (a) of Section 1766, the Youthful Offender Parole Board shall impose as a condition thereof that the minor pay in full the restitution fine imposed pursuant to Section 730.6. Payment shall be in installments set in an amount consistent with the minor's ability to pay.

SEC. 6. The Legislature hereby finds and declares that payment into the Restitution Fund by minors who commit offenses which did

not involve particular victims is appropriate and in the public interest, as all of society is victimized and pays the price when such crimes occur. Accordingly, the Legislature finds and declares that it is highly appropriate and beneficial to the rehabilitation of such minors, that minors found to be persons described in Section 602 by having committed such offenses carry part of the burden through payment into the Restitution Fund.

SEC. 7. This act is part of the Crime Victim Restitution Program of 1983 in that it assists victims of crime committed by minors in obtaining restitution and enhances rehabilitation by instilling in minors a sense of responsibility for their criminal acts, by requiring minors who have been found to have committed criminal offenses to pay a restitution fine and, if granted probation, to pay restitution to the victim, or to the Restitution Fund if the crime did not involve a victim.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

CHAPTER 941

An act to amend Section 193 of the Penal Code, relating to crime.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 193 of the Penal Code is amended to read:

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for three, six, or eleven years.

(b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three or four years.

(c) A violation of subsection 3 of Section 192 of this code is punishable as follows: In the case of a violation of subdivision (a) of said subsection 3 the punishment shall be either by imprisonment in the county jail for not more than one year or in the state prison; in the case of a violation of subdivision (b) of said subsection 3, the punishment shall be by imprisonment in the county jail for not more than one year.

SEC. 2. Section 193 of the Penal Code is amended to read:

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for three, six, or eleven years.

(b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three or four years.

(c) Vehicular manslaughter is punishable as follows:

(1) For a violation of paragraph (a) of subdivision 3 of Section 192, the punishment shall be either by imprisonment in the county jail for not more than one year or imprisonment in the state prison for two, four, or six years.

(2) For a violation of paragraph (b) of subdivision 3 of Section 192 the punishment shall be by imprisonment in the county jail for not more than one year.

(3) For a violation of paragraph (c) of subdivision 3 of Section 192, the punishment shall be by imprisonment in the state prison for four, six, or eight years.

(4) For a violation of paragraph (d) of subdivision 3 of Section 192, the punishment shall be either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months, two, or four years.

SEC. 3. Section 2 of this bill incorporates amendments to Section 193 of the Penal Code proposed by both this bill and SB 456. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 193 of the Penal Code, and (3) this bill is enacted after SB 456, in which case Section 1 of this bill shall not become operative.

CHAPTER 942

An act to amend Section 1346 of the Penal Code, relating to testimony.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 1346 of the Penal Code is amended to read:

1346. (a) When a defendant has been charged with a violation of Section 243.4, 261, 261.5, 264.1, 285, 286, 288, 288a, or 289, where the victim is a person 15 years of age or less, the people may apply for an order that the victim's testimony at the preliminary hearing, in addition to being stenographically recorded, be recorded and preserved on videotape.

(b) The application for the order shall be in writing and made three days prior to the preliminary hearing.

(c) Upon timely receipt of the application, the magistrate shall order that the testimony of the victim given at the preliminary hearing be taken and preserved on videotape. The videotape shall be transmitted to the clerk of the court in which the action is pending.

(d) If at the time of trial the court finds that further testimony would cause the victim emotional trauma so that the victim is

medically unavailable or otherwise unavailable within the meaning of Section 240 of the Evidence Code, the court may admit the videotape of the victim's testimony at the preliminary hearing as former testimony under Section 1291 of the Evidence Code.

(e) Any videotape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) Any videotape made pursuant to this section shall be made available to the prosecuting attorney, the defendant, and his or her attorney for viewing during ordinary business hours.

(g) The tape shall be destroyed after five years have elapsed from the date of entry of judgment; provided, however, that if an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been rendered.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code 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 943

An act to amend Section 6253 of, and to add Section 6266 to, the Penal Code, relating to community correctional centers.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 6253 of the Penal Code is amended to read:

6253. The Director of Corrections may transfer inmates whose terms of imprisonment have been fixed from the state prisons and facilities of the Department of Corrections to community correctional centers, and place parolees in the community correctional centers. The director may charge the resident reasonable fees, based on ability to pay, for room, board and so much of the costs of administration as are allocable to such resident. Fees may not exceed actual, demonstrable costs to the department. No fees shall be collected from an inmate or parolee after his or her residency in the center has terminated.

Notwithstanding any other provision of law, no inmate or parolee shall be denied placement in a community correctional center on the basis of inability to pay fees authorized by this section.

SEC. 2. Section 6266 is added to the Penal Code, to read:

6266. The director may charge the inmate in a work furlough

program reasonable fees, based on ability to pay for room, board, and so much of the costs of administration as are allocable to the inmate. Fees may not exceed the actual, demonstrable costs to the department. No fees shall be collected from an inmate after his or her tenure in a work furlough program is terminated.

Notwithstanding any other provision of law, no inmate shall be denied placement in a work furlough program on the basis of inability to pay fees authorized by this section.

CHAPTER 944

An act to repeal and add Section 347 to the Penal Code, relating to harmful substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 347 of the Penal Code is repealed.

SEC. 2. Section 347 is added to the Penal Code, to read:

347. (a) Every person who willfully mingles any poison or harmful substance with any food, drink, medicine or pharmaceutical product or who willfully places any poison or harmful substance in any spring, well, reservoir, or public water supply where the person knows or should have known that the same would be taken by any human being to his or her injury is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.

Any violation of this subdivision involving the use of a poison or harmful substance which may cause death if ingested or which causes the infliction of great bodily injury on any person shall be punished by an additional term of three years.

(b) Any person who maliciously informs any other person that a poison or other harmful substance has been or will be placed in any food, drink, medicine, pharmaceutical product, or public water supply, knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 4. This act is an urgency statute necessary for the

immediate preservation of public peace, health, or safety within the meaning of Article IV of the Constitution and it shall go into immediate effect. The facts constituting the necessity are:

The placing of poisons and other harmful substances within food, drink, medicine and pharmaceutical products intended for public consumption in this state is a growing problem which is of paramount concern to the people of California. In order to permit the courts to properly deal with this situation and to take immediate and stringent action, it is necessary that this act go into effect immediately.

CHAPTER 945

An act relating to state hospitals, declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. (a) No patient in Atascadero State Hospital shall be transferred to a lower security state hospital, unless the State Department of Mental Health performs an assessment of the risk of escape and dangerousness of that person, and determines based on that assessment that a patient can be treated at a lower security facility without danger to the public.

(b) The department shall forward a summary of a patient's assessment pursuant to subdivision (a) to the local mental health director of the area in which the lower security state hospital is located for review. The local mental health director may comment on the assessment.

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:

The patients at Atascadero State Hospital are of a different type than those patients cared for at lower security state hospitals. In order to prevent the transfer of these patients to lower security state hospitals until assessments of the risk of escape and dangerousness have been performed, it is necessary that this act take effect immediately as an urgency statute.